

Volume 3

Pages 562 - 844

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE WILLIAM H. ALSUP

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. CR 08-0222 WHA
	)	No. CR 14-0306 WHA
LUKE D. BRUGNARA,	)	
	)	San Francisco, California
Defendant.	)	Wednesday
	)	April 29, 2015
	)	7:30 a.m.

**TRANSCRIPT OF JURY TRIAL PROCEEDINGS**

**APPEARANCES:**

**For Plaintiff:** MELINDA HAAG  
United States Attorney  
450 Golden Gate Ave.  
San Francisco, California 94102  
**BY: ROBIN HARRIS, AUSA**  
**BENJAMIN KINGSLEY, AUSA**

**For Defendant:** LUKE D. BRUGNARA  
- pro se

**Advisory Counsel:** LAW OFFICES OF PAUL WOLF  
717 Washington Street  
Second Floor  
Oakland, California 94607  
**BY: JAMES R. STEVENS, ESQ.**

**(APPEARANCES CONTINUED ON FOLLOWING PAGE)**

**Reported By: Debra L. Pas, CSR 11916, CRR, RMR, RPR**  
Official Reporter - US District Court  
Computerized Transcription By Eclipse

*Debra L. Pas, CSR, CRR and Belle Ball, CSR, CRR*  
*Official Reporters - U.S. District Court - San Francisco, California*  
*(415) 431-1477*

1 APPEARANCES: (CONTINUED)

2  
3 **Advisory Counsel:** LAW OFFICES OF TAMOR & TAMOR  
311 Oak Street  
4 Suite 108  
Oakland, California 94607  
5 **BY: RICHARD ALAN TAMOR, ESQ.**  
6

7 **Also Present:** FBI Special Agent Jeremy Desor  
8 FBI Special Agent Aleksandr Kobzanets  
9 Mary Mallory, U.S. Attorney's Office  
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P R O C E E D I N G S

**APRIL 29, 2015**

**7:31 a.m.**

(Defendant present, in custody.)

(The following proceedings were held outside of the  
presence of the jury)

**THE COURT:** All right, Mr. Brugnara. Are you ready?

**MR. BRUGNARA:** Can I have a minute, your Honor?

**THE COURT:** Are you ready on the Government's side?

**MS. HARRIS:** We are, Your Honor.

Very briefly, the Court's quashed a subpoena to  
Mr. Shaoul. I don't know who that is or have contact  
information for Mr. Shaoul. The Court asked the Government to  
notify him. We don't know who -- the contact information.

**THE CLERK:** I spoke with him yesterday, after the  
hearing.

**THE COURT:** Any other issues to take up?

(No response)

(The following proceedings were held in open court,  
in the presence of the jury:)

**THE CLERK:** All rise.

**THE COURT:** Good morning. All right, welcome again.  
Please have a seat.

Somebody asked Dawn over there in the jury box, who those  
people were in the back of the room. And, it's a public  
proceeding. Our -- one of the great things about our court

1 system is that it's all public. So, sometimes people come and  
2 watch. That's the answer.

3 All right. Where's our witness?

4 **MR. KINGSLEY:** He's outside.

5 **THE COURT:** All right. Let's bring in the witness.

6 While we are waiting, thank you all, you are here early,  
7 earlier than you were required to be here. It's now 7:45 and  
8 you are here, well before you were required to be and we're all  
9 ready to go, and sitting in the courtroom. Thank you for that.

10 You will remember -- Mr. Maibaum, please come forward,  
11 welcome back. Have a seat. I have got to remind you, you are  
12 still under oath, of course.

13 If anyone over there needs a cough drop -- do you need a  
14 cough drop?

15 **MS. MALLORY:** I brought them.

16 **THE COURT:** All right. Please use them, because we  
17 don't want to have static crashes during the testimony.

18 **WALTER MAIBAUM,**  
19 called as a witness for the Government herein, having been  
20 previously sworn, resumed the stand and testified further as  
21 follows:

22 **THE COURT:** All right. You want to get yourself some  
23 water -- do you have water there?

24 **THE WITNESS:** Let's hope.

25 **THE COURT:** All right. You remember we got through

1 the direct examination of our witness on the stand, and we had  
2 started the cross examination, but had not finished it. So,  
3 it's -- we will resume where we left off yesterday.

4 Mr. Brugnara, the floor is yours.

5 **MR. BRUGNARA:** Thank you, your Honor.

6 Good morning.

7 **CROSS EXAMINATION RESUMED**

8 **BY MR. BRUGNARA:**

9 **Q** Good morning, Mr. Maibaum.

10 **A** Good morning.

11 **Q** So Mr. Maibaum I just want to revisit a few material  
12 issues from yesterday regarding the art in question that you  
13 sold to Rose Long. And I just want to set a few issues,  
14 clarify a few issues for me, at least, regarding your sale with  
15 her just so the record's clear.

16 Okay. So, what you said yesterday, is it true that you  
17 said yesterday that the transaction between you and Rose Long  
18 was an arms-length transaction whereas you are not partner of  
19 hers, correct?

20 **A** That is correct.

21 **Q** Okay. And your company has no affiliation, she's not an  
22 officer of your corporation or a shareholder of any of your  
23 subcorporations and companies. Correct?

24 **A** Correct.

25 **Q** Okay. So, your relationship to this transaction between

1 Rose Long and Brugnara or Brugnara Properties has nothing to do  
2 with you and your transaction between you and Rose Long.

3 Correct?

4 **A** I'm sorry; would you say that again?

5 **Q** The transaction between Rose Long or the failed  
6 transaction between Rose Long and Brugnara -- let's call  
7 Brugnara, you know, be Brugnara -- has nothing to do with the  
8 transaction between you and your companies and Rose Long and  
9 her companies, to the extent of the contractual sale between  
10 your companies and Rose Long's companies.

11 **A** In terms of the contractual arrangements, that is correct.

12 **Q** Okay. All right. Because, as we discussed yesterday, in  
13 the cross, you are aware that Rose Long has alleged and Judge  
14 Alsup clarified it is her allegation that in fact you were a  
15 silent partner, or you were advising her --

16 **MR. KINGSLEY:** Objection.

17 **THE COURT:** Sustained. This is argument.

18 **MR. BRUGNARA:** Okay.

19 **THE COURT:** Whatever I read yesterday from that  
20 pleading, the jury has in mind. But you are now just going  
21 into argument.

22 **MR. BRUGNARA:** No, Your Honor, I'm not going to argue  
23 with him. I just want to set the record clear.

24 **BY MR. BRUGNARA:**

25 **Q** Your position is that those are false statements and --

1           **MR. KINGSLEY:** Objection.

2           **THE COURT:** Sustained.

3 **BY MR. BRUGNARA:**

4 **Q**     You are not partner of Rose Long. She is not a partner of  
5 yours, is that correct?

6 **A**     That is correct.

7 **Q**     All right. We'll leave that alone. I just wanted to make  
8 that clear.

9           So moving ahead, I want to talk about the shipment of art  
10 and your experiences with that, as it relates to this  
11 transaction in particular and the emails that were sent.

12           You had indicated to the FBI that the proper procedure --

13           **THE COURT:** That is not a proper question.

14           **MR. BRUGNARA:** Okay.

15 **BY MR. BRUGNARA:**

16 **Q**     Isn't it true, Mr. Maibaum, that you stated that proper  
17 protocol would be to use a company such as ShipArt or Manhattan  
18 -- Cirkers or Day & Myer where you would ship valuable art --  
19 not you in particular, but "you" meaning anybody, anyone who's  
20 shipping valuable art, a prudent sale would include shipping  
21 valuable art to a third-party secure storage facility, and then  
22 it would be a sort of escrow arrangement.

23           Isn't that correct?

24           **MR. KINGSLEY:** Objection. I don't understand the  
25 question.

1           **MR. BRUGNARA:** Okay. Let me rephrase it.

2           **THE COURT:** It's also a very compound question.

3           **MR. BRUGNARA:** Okay.

4 **BY MR. BRUGNARA:**

5 **Q** Mr. Maibaum, isn't proper protocol for the purchase of  
6 valuable fine art using a -- an established reputable art  
7 shipment and facility to complete the transaction?

8 **A** It depends on the circumstances, but in this particular  
9 case I did ask Rose Long to ship it to ShipArt in South  
10 San Francisco.

11 **Q** Okay. And that's what the report says.

12 And isn't it true --

13           **MR. KINGSLEY:** Objection.

14           **THE COURT:** Sustained. The jury will disregard what  
15 Mr. Brugnara just said about what the report said. That is not  
16 evidence, that is not evidence, not evidence.

17 You cannot do that.

18           **MR. BRUGNARA:** Okay. Well, it wasn't done  
19 intentionally, your Honor.

20           **THE COURT:** Well, I don't know whether it was  
21 intentional or not, but the jury might get confused and think  
22 that is evidence.

23           **MR. BRUGNARA:** Okay.

24           **THE COURT:** You just get to ask questions. You don't  
25 get to make statements.



1           **MR. BRUGNARA:** Okay. Mr. Maibaum confirmed what is  
2 stated. Okay --

3           **THE COURT:** Again, that is not evidence. The jury  
4 will disregard that last comment.

5           Please, just ask questions.

6 **BY MR. BRUGNARA:**

7 **Q** Mr. Maibaum, isn't it true that you communicated with  
8 Harvey Schochet, the attorney, nearly the identical  
9 information, specifically in an email stating that your  
10 company, Modernism, would have insisted that the art be shipped  
11 to a company such as ShipArt in South San Francisco, similar to  
12 Cirkers, and the art would have remained there under control  
13 until such time payment in full was received, and then in  
14 parentheses, "an escrow type arrangement"?

15           Isn't it correct that you sent that email to Mr. Schochet?

16 **A** Well, I don't have the email in front of me, but if you  
17 have it --

18           **MR. BRUGNARA:** May I approach Mr. Maibaum  
19 (Indicating)?

20           **THE COURT:** Yes, you may.

21           (Witness examines document)

22           **THE WITNESS:** Thank you. May I read what the  
23 underlying statement says?

24           **MR. KINGSLEY:** Objection. This is a hearsay email.

25           **THE COURT:** Sustained.

1           **MR. BRUGNARA:** Okay. I guess I'll rephrase it.

2           **THE COURT:** Why is this different from the point you  
3 were making a moment ago?

4           **MR. BRUGNARA:** Well, you know, it's all going to tie  
5 together, your Honor, because --

6           **THE COURT:** Well, he said that he had asked Ms. Long  
7 to ship it by -- what was it again?

8           **THE WITNESS:** To a company called ShipArt in South  
9 San Francisco.

10           **MR. BRUGNARA:** It's all going to tie --

11           **THE COURT:** Is this just gilding the lily?

12           **MR. BRUGNARA:** Just, your Honor, on a sidebar here, I  
13 like talking, you know, at a normal conversation flow, not  
14 riddles. But, you know, the Rules of Evidence require me to  
15 fashion a question in such a manner --

16           **THE COURT:** You have to be quiet and ask questions.  
17 No speeches to the jury.

18           **MR. BRUGNARA:** Okay.

19 **BY MR. BRUGNARA:**

20 **Q** Okay, Mr. Maibaum, now we're going to tie it all together.

21 Isn't it true that Ms. Long told you that Luke Brugnara  
22 didn't want to use ShipArt?

23           **MR. KINGSLEY:** Objection, hearsay.

24           **THE COURT:** No, this goes to establishing what the  
25 transaction and communications were between -- this is okay.

1 Did she say that to you?

2 **MR. KINGSLEY:** He is asking to get in -- (Inaudible)

3 (Reporter interruption)

4 **MR. KINGSLEY:** Objection, hearsay. He's asking the  
5 witness to testify to Mr. Brugnara's statement to Rose Long.

6 **THE COURT:** Well, if it was admitted for the truth,  
7 that would be true. But to prove up the transaction of what  
8 was communicated at the time in question, assuming it was, it  
9 would be limited to that purpose.

10 So, did she tell you that he made that statement?

11 **THE WITNESS:** As I recall, what Rose Long told me was  
12 that Mr. Brugnara insisted that the art be -- actually, she  
13 didn't say "Mr. Brugnara." At that point I didn't know who the  
14 client was.

15 **THE COURT:** All right.

16 **THE WITNESS:** As I recall, she said that the art must  
17 be shipped to "the facility," indicating the museum, rather  
18 than to ShipArt. That's what the insistence was.

19 **BY MR. BRUGNARA:**

20 **Q** Okay. Mr. Maibaum, would you be interested and surprised  
21 to know and realize that I, in fact, told Ms. Long to ship the  
22 art to ShipArt?

23 **MR. KINGSLEY:** Objection --

24 **THE COURT:** Sustained. It's improper.

25

1 BY MR. BRUGNARA:

2 Q Mr. Maibaum, do you know, do you know, do you know that I  
3 told Ms. Long --

4 MR. KINGSLEY: Objection.

5 THE COURT: Sustained.

6 BY MR. BRUGNARA:

7 Q -- to ShipArt?

8 THE COURT: Sustained. You asked him a question, and  
9 he gave you an answer. And, and now you are arguing with him.

10 MR. BRUGNARA: I'm not arguing.

11 THE COURT: Over the accuracy of the answer. No, you  
12 can't do that.

13 MR. BRUGNARA: I didn't hear his answer.

14 THE COURT: You are trying to testify in the guise of  
15 questions before the jury.

16 MR. BRUGNARA: Okay.

17 THE COURT: You can't do that.

18 BY MR. BRUGNARA:

19 Q Mr. Maibaum --

20 THE COURT: You can't do that.

21 BY MR. BRUGNARA:

22 Q Were you aware that I told her to use ShipArt?

23 MR. KINGSLEY: Objection.

24 THE COURT: Sustained.

25

1 **BY MR. BRUGNARA:**

2 **Q** Mr. Maibaum, did your attorney, Harvey Schochet, tell you  
3 that I told her to use ShipArt?

4 **MS. HARRIS:** Objection. Hearsay again.

5 **THE COURT:** Sustained.

6 **BY MR. BRUGNARA:**

7 **Q** Mr. Maibaum, did your attorney or did Ms. Long tell you  
8 that I told her --

9 **MR. KINGSLEY:** Objection, hearsay.

10 **MR. BRUGNARA:** -- send to ShipArt --

11 **THE COURT:** Sustained. We're going to deal with it  
12 this way.

13 Mr. Maibaum, tell us in your own words everything that  
14 anybody told you at the time on the subject of how the  
15 purchaser wanted the art to be shipped. Now, you've already  
16 answered that in part, but if there's anything more to add on  
17 that subject, please do so now.

18 **THE WITNESS:** The correct answer is, as I recall,  
19 Ms. Long said that the purchaser whose name I did not know at  
20 that point insisted that the art be shipped to his facility.  
21 And he guaranteed -- or she validated and said to me words to  
22 the effect that she will stand behind the shipment and that she  
23 will guarantee the shipment directly to the buyer.

24 **MR. BRUGNARA:** Your Honor, can I approach Mr. Maibaum  
25 to show him --

1           **THE COURT:** If you are going to show him something  
2 that is a communication to him, then okay. You can do that.

3           **MR. KINGSLEY:** I'm not --

4           **THE COURT:** If it's some communication between you  
5 and Rose Long, no. That's not going to be proper. You haven't  
6 laid the foundation to do that.

7           **MR. KINGSLEY:** Mr. Brugnara, can I see it before you  
8 show it to him?

9           (Request complied with by Mr. Brugnara.)

10 **BY MR. BRUGNARA:**

11 **Q** Mr. Maibaum, have you seen this email that was sent by --  
12 and confirmed through the authorities?

13           (Witness examines document)

14           **THE COURT:** Just, have you seen what he showed you?

15           **THE WITNESS:** I don't know this email. I have never  
16 seen this email before.

17 **BY MR. BRUGNARA:**

18 **Q** Okay. Thank you.

19           **MR. BRUGNARA:** Your Honor, can I put this email into  
20 an exhibit?

21           **THE COURT:** There's no foundation. This witness has  
22 never seen it.

23           **MR. BRUGNARA:** Okay.

24 **BY MR. BRUGNARA:**

25 **Q** Mr. Maibaum, this email confirms --

1           **MR. KINGSLEY:** Objection. This is hearsay,  
2 your Honor. Mr. Brugnara --

3           **THE COURT:** Mister -- you can't read from something  
4 that is not in evidence.

5 **BY MR. BRUGNARA:**

6 **Q** Okay. Mr. Maibaum, doesn't the document you just read --

7           **MR. KINGSLEY:** Objection.

8           **THE COURT:** Sustained. You cannot do that. You  
9 cannot read from the document and argue with the witness over  
10 some document that the witness hasn't seen. Maybe you can do  
11 that with Ms. Long when she comes.

12           (Off-the-Record discussion between Mr. Brugnara and  
13 Counsel)

14 **BY MR. BRUGNARA:**

15 **Q** All right, Mr. Maibaum, I have a couple of questions for  
16 you about the art that we saw yesterday. I just want to make  
17 the record clear, based on your testimony.

18           The first piece that we saw, the Miro, we sent out certain  
19 subpoenas that responded to --

20           **MR. KINGSLEY:** Objection.

21 **BY MR. BRUGNARA:**

22 **Q** Mr. Maibaum, did you respond to certain subpoenas for  
23 information through -- by and through your counsel?

24 **A** As far as I recall, yes.

25 **Q** And wasn't one of those documents certain evidence of

1 certain purchases of the art in this case?

2 **A** I would have to know the document you're referring to.

3 **Q** Okay. Mr. Maibaum, did you look at and review the  
4 documents that were provided to this Court by and through your  
5 attorneys pursuant to a subpoena?

6 **A** I presume so.

7 **Q** Okay. So regarding the Miro, isn't it true, then, that  
8 that came from an established reputable source and -- it was  
9 France -- on a trade for approximately \$40,000?

10 **A** No, that's not correct. It came from Spain. It came from  
11 Manuel Barbié Gallery. And I believe the cost was  
12 approximately 60,000. 55- to 60,000.

13 **Q** And then, regarding the Franco Picassos that came from  
14 another reputable gallery, from Germany, it was 20 or 30,  
15 \$25,000, isn't that correct?

16 **A** No, that is not correct. That's only a pair of the  
17 Picassos, but there were many more. And they came from other  
18 sources as well.

19 **Q** But those invoices that were provided by your counsel are  
20 accurate and true representations of what you paid for --

21 **A** To be clear, you mentioned 25,000 --

22 **Q** I believe it was 25,000. I can pull up the document.

23 **MR. KINGSLEY:** Objection, arguing with the witness.

24 **THE WITNESS:** To be clear, to be clear, it was much  
25 more than 28,000 for the group of Picasso etchings. In fact,



1 we paid approximately 100,000 for the entire group.

2 **BY MR. BRUGNARA:**

3 **Q** Okay. Let me ask you this, Mr. Maibaum. Why didn't you  
4 provide the requested items under the subpoena request for the  
5 information that you're discussing right now?

6 **A** I did provide the requested items. To the best of my  
7 ability, to the best of my knowledge.

8 **Q** Do you normally keep records of what you purchase and what  
9 you sell --

10 **A** Of course.

11 **Q** -- in your normal course of business?

12 **A** Yes.

13 **Q** How long do you keep those records for?

14 **A** As long as necessary.

15 **Q** In your practice, what is as long as necessary?

16 **A** Ten years, perhaps.

17 **Q** So, ten years. So these --

18 **A** This is an approximation.

19 **Q** So these purchases were made, though, in the last ten  
20 years, according to the documents provided to the Court.

21 **A** That's correct.

22 **Q** So is there a reason why, that you didn't provide a  
23 complete set of sales receipts --

24 **MR. KINGSLEY:** Objection. There's no evidence that  
25 Mr. Maibaum didn't provide a complete set.

1           **THE COURT:** That's true. Sustained.

2           **BY MR. BRUGNARA:**

3           **Q**     Mr. Maibaum, are you aware that -- let's talk about the  
4     Picassos. Are you aware that there were two receipts provided  
5     on the Picasso, one for \$12,000 and one for \$28,000?

6           **MR. KINGSLEY:** Objection. He's testifying about  
7     documents that are not in evidence.

8           **THE COURT:** Sustained. And -- just, sustained.

9           **BY MR. BRUGNARA:**

10          **Q**     Mr. Maibaum, there were no banking records produced  
11     pursuant to that 17(c) subpoena by this Court. Are you aware  
12     of that?

13          **MR. KINGSLEY:** Objection. He just stated a fact, and  
14     then asked if he was aware of it.

15          **THE COURT:** Well, do you know the answer to what was  
16     in that stack of materials that was provided in response to the  
17     subpoena?

18          **THE WITNESS:** Your Honor, I do not. As far as I  
19     recall, there were no requests for banking records in this  
20     subpoena. It was documentation requested about our purchase.  
21     And about the works of art, themselves.

22          **BY MR. BRUGNARA:**

23          **Q**     Okay. Mr. Maibaum, are you aware there was a hearing two  
24     days ago on that subpoena, request to quash it?

25          **MR. KINGSLEY:** Objection. He wasn't at that hearing.

1           **MR. BRUGNARA:** I asked if he was aware of that.

2           **THE COURT:** Well --

3           **MR. KINGSLEY:** It --

4           **THE COURT:** The witness was not present at that  
5 hearing. Most of the subpoena was quashed.

6           **MR. BRUGNARA:** Okay, Mr. Maibaum --

7           **THE COURT:** And part of it was allowed, and a large  
8 number of documents were produced. I saw it, myself.

9           Now, how is this witness --

10           **MR. BRUGNARA:** I have a question that ties in.

11 **BY MR. BRUGNARA:**

12 **Q** Are you aware that there was a declaration provided with  
13 that motion --

14           **MR. KINGSLEY:** Objection.

15 **BY MR. BRUGNARA:**

16 **Q** -- that was signed by you?

17           **MR. KINGSLEY:** Relevance.

18 **BY MR. BRUGNARA:**

19 **Q** Did you --

20           **THE COURT:** Well, did you sign the declaration?

21           **THE WITNESS:** I did sign a declaration, yes.

22           **THE COURT:** All right. Well, you can inquire about  
23 the declaration.

24 **BY MR. BRUGNARA:**

25 **Q** Mr. Maibaum, isn't it true that the declaration stated

1 that you don't have the banking records, and that you've  
2 provided all of the records to the United States Attorney?

3 **A** No. What the declaration said, in truth, was that there  
4 were no banking records, because we never got paid on the works  
5 of art in the transaction. That's what the declaration said.  
6 So, there's no banking records.

7 **Q** Mr. Maibaum, are you aware that the Court ordered your  
8 attorney to produce banking records regarding the purchase and  
9 the sale of the artwork in question?

10 **MR. KINGSLEY:** Objection.

11 **THE COURT:** What's the objection?

12 **MR. KINGSLEY:** The subpoena was quashed. He's  
13 testifying --

14 **MR. BRUGNARA:** No.

15 **MR. KINGSLEY:** (Inaudible) court order.

16 **MR. BRUGNARA:** The subpoena pursuant to those matters  
17 weren't quashed. That's why declarations were provided to the  
18 Court subsequent --

19 **THE COURT:** I did require that the company,  
20 Mr. Maibaum's company, produce the records as between him and  
21 Rose Long on the items of art that involved you. I did not  
22 require that banking records and so forth be produced. I said  
23 that the rest of the subpoena would be quashed. That's my  
24 memory of it.

25 Now, if you have a transcript that says something

1 different, I'll be happy to be corrected on this. But I think  
2 that's what happened.

3 **BY MR. BRUGNARA:**

4 **Q** Mr. Maibaum, would you leave art of any value in a  
5 cluttered garage, that you were trying to sell?

6 **A** Would I? Absolutely not.

7 **Q** Okay.

8 **MR. BRUGNARA:** I would like to approach the witness  
9 and show him a photograph.

10 **THE COURT:** Of what?

11 **MR. BRUGNARA:** Of something that might interest  
12 everybody.

13 **THE COURT:** All right. Go ahead.

14 **BY MR. BRUGNARA:**

15 **Q** Mr. Maibaum, do you recognize those crates?

16 (Witness examines photograph)

17 **A** Actually, I had never seen the crates.

18 **Q** Okay. Well, those are the crates. Does that --

19 **MR. KINGSLEY:** Objection.

20 **MS. HARRIS:** Objection.

21 **BY MR. BRUGNARA:**

22 **Q** Mr. Maibaum, does that garage look cluttered to you?

23 **THE COURT:** That's a hypothetical question. He  
24 wasn't there. He never saw the garage, he never saw the  
25 crates. This is just an argument. There will be other

1 witnesses that you can explore this with.

2           **MR. BRUGNARA:** Your Honor, can I put this on the  
3 video screen?

4           **THE COURT:** No, you can't. You wait until Rose Long  
5 or whoever it is that can deal with this on a  
6 firsthand-knowledge basis shows up. But this is premature.

7           (Off-the-Record discussion between Mr. Brugnara and  
8 Counsel)

9 **BY MR. BRUGNARA:**

10 **Q** Okay, Mr. Maibaum, isn't it true that in your lawsuit  
11 against Ms. Long that we discussed yesterday, you're suing her  
12 for negligence amongst other claims for leaving art in a  
13 cluttered garage?

14 **A** I believe so. I would have to look at the document again.

15 **Q** So, in your experience, it's prudent and normal business  
16 practices to send valuable art or somewhat valuable art to a  
17 reputable storage facility such as ShipArt rather than a  
18 cluttered garage.

19 Is that correct?

20           **MR. KINGSLEY:** Objection. Compound question, and  
21 facts not in evidence.

22 **BY MR. BRUGNARA:**

23 **Q** Okay. Mr. Maibaum --

24           **THE COURT:** We have covered the ground where --

25           **MR. BRUGNARA:** Okay --

1           **THE COURT:** He's already told everybody he didn't use  
2 ShipArt.

3 **BY MR. BRUGNARA:**

4 **Q** Are you an expert in art?

5 **A** In some art.

6 **Q** Are you an expert in the art industry?

7 **A** In the art business?

8 **Q** In the art business, in the art industry?

9 **A** I have a long-term experience in the art world, yes. In  
10 the art business.

11 **Q** What is your opinion regarding somebody who would leave  
12 art in a cluttered garage? What is your opinion?

13 **A** In what context? I don't understand --

14 **Q** In the context: Do you think that is a proper way to  
15 conduct business?

16 **A** Again, it depends on the circumstance, but normally it  
17 wouldn't be prudent.

18 **Q** Why wouldn't it be prudent?

19           **THE COURT:** I think he said it would not be prudent.

20           **MR. BRUGNARA:** No, I said "Why wouldn't it be  
21 prudent," I said.

22           **THE WITNESS:** Damage could occur, perhaps. It  
23 depends on the circumstance. Theft could occur, perhaps.

24 **BY MR. BRUGNARA:**

25 **Q** Would it surprise you, Mr. Maibaum, after looking at that

1 picture, to have anybody tell you that that garage is empty?

2 MR. KINGSLEY: Objection.

3 THE COURT: Sustained.

4 MR. BRUGNARA: Okay.

5 BY MR. BRUGNARA:

6 Q All right. Mr. Maibaum, I want to you ask you a couple  
7 other questions since you're an expert in art.

8 A In some art.

9 Q Some art. Mr. Maibaum, in order to remove art from these  
10 heavy crates, what's been your experience regarding the proper  
11 procedure and protocol?

12 MR. KINGSLEY: Objection, foundation. This witness  
13 has not testified about moving art from anyplace.

14 THE COURT: Well, but he may -- maybe he knows about  
15 this.

16 Do you know about the procedure for uncrating works of  
17 art?

18 THE WITNESS: Yes, Your Honor, I do.

19 THE COURT: All right, then you may testify about  
20 this. Do you want him to tell us the procedure?

21 MR. BRUGNARA: No, I would like to ask him a couple  
22 of direct questions.

23 THE COURT: Please ask him your questions.

24 BY MR. BRUGNARA:

25 Q Mr. Maibaum, isn't it true that on these crates of heavy



1 art, they usually entail screws that are about three to five  
2 inches?

3 **A** Depends on the crate. Depends on the --

4 **Q** Okay. Mr. Maibaum, on a crate that weighs 200-plus pounds  
5 and is perhaps five feet by three feet, don't they usually  
6 engage screws that are heavy-duty commercial screws, perhaps  
7 between three to five inches, to secure the crates closed  
8 during transport?

9 **A** The screws would be long enough to support the weight of  
10 the crate, if packed properly by a security warehouse like  
11 Cirkers.

12 **Q** Thank you. Mr. Maibaum, wouldn't you say it would be  
13 impossible to manually -- even if you were extremely muscular,  
14 to manually dislodge to 50 or 60 screws that are in these  
15 crates, or in one crate, to secure it shut? Could it be done  
16 physically by hand?

17 **A** I don't know --

18 **MR. KINGSLEY:** Objection. We don't know how many  
19 screws.

20 **THE COURT:** Sustained.

21 **BY MR. BRUGNARA:**

22 **Q** Mr. Maibaum, how many screws on a crate that's 50 --  
23 you've been doing this 40 years.

24 **A** Fifty years.

25 **Q** Fifty years, okay. On a crate that's five feet by two

1 feet and weighs 200 pounds and has to support the weight on  
2 these screws, how many screws, in your experience, would seal  
3 such a crate shut?

4 **A** It depends on the nature of the crate, and it depends on  
5 the nature of the art inside. But certainly more than a dozen,  
6 I would say.

7 **Q** Okay. Have you ever tried or have you ever seen anyone  
8 try to do it manually?

9 **A** Yes.

10 **Q** Is the proper protocol manually? Or with a  
11 commercial-grade screwdriver?

12 **A** I have done it myself with a home screw gun.

13 **Q** So you have actually seen someone dislodge a five-inch  
14 screw from solid pine on a 200-pound crate by hand?

15 **A** Yes. I have done it, myself.

16 **Q** You're a lot stronger than you look --

17 **MR. KINGSLEY:** Objection.

18 **THE COURT:** No commentary.

19 **BY MR. BRUGNARA:**

20 **Q** Mr. Maibaum, could a six-inch pair of pliers open a  
21 200-pound crate that's five feet by three feet, that has 20  
22 screws in it?

23 **A** It wouldn't be logical.

24 **Q** Okay.

25 **THE COURT:** Are you saying pliers? Pliers? Or a

1 screwdriver?

2 **MR. BRUGNARA:** Okay.

3 **BY MR. BRUGNARA:**

4 **Q** Mr. Maibaum, have you ever seen a pair of pliers that  
5 have, almost like a Swiss Army knife, a retractable  
6 Phillips-head screwdriver on it, that you may see at Home Depot  
7 --

8 **THE COURT:** Talking about a Leatherman? A tool  
9 called a Leatherman where they have, like, a Swiss Army knife  
10 that pops out? I have one of those; I understand that.

11 Is that what you are referring to?

12 **BY MR. BRUGNARA:**

13 **Q** Mr. Maibaum, could somebody open a 200-pound crate with  
14 the Leatherman?

15 **A** I have never seen a Leatherman. I don't know what you're  
16 referring to.

17 **Q** Okay. Mr. Maibaum, are you aware that Ms. Rose Long --

18 **MR. KINGSLEY:** Objection.

19 **BY MR. BRUGNARA:**

20 **Q** Mr. Maibaum, are you aware that --

21 **THE COURT:** I can tell already this is not going to  
22 be admissible.

23 **MR. BRUGNARA:** Okay. I'll wait on that one. Let's  
24 go on to the next.

25 **MR. KINGSLEY:** Your Honor, could the Defendant be

1 instructed not to show pictures that are not in evidence to the  
2 jury?

3 **THE COURT:** You should not be showing things to the  
4 jury that are not in evidence.

5 Did you raise your hand over there? I thought I saw  
6 somebody raise their hand in the jury box.

7 **JUROR:** (Shakes head)

8 **THE COURT:** All right. Mr. Brugnara, continue,  
9 please.

10 **BY MR. BRUGNARA:**

11 **Q** All right. Mr. Maibaum, I just want to clarify a couple  
12 of things, going back to the art in question.

13 Is your email address modernism@nyc.44.com?

14 **A** Yes. For Modernism Fine Arts.

15 **Q** Okay. Did you receive an email from  
16 roserameylong@gmail.com, April 9th, that stated --

17 **MR. KINGSLEY:** Objection.

18 **THE COURT:** Just, show the exhibit to the witness and  
19 he can say whether he received it or not.

20 Is that marked as evidence yet? Do we have an exhibit  
21 number for that?

22 **MR. KINGSLEY:** We haven't marked it. I don't even  
23 know what he's showing the witness.

24 **THE COURT:** All right. Do you know that document,  
25 Mr. Maibaum?

1 (Witness examines document)

2 **THE WITNESS:** I vaguely recall the document. It was  
3 a year ago.

4 **THE COURT:** All right. Did you receive that exhibit?

5 **THE WITNESS:** If I can take a quick -- another look,  
6 I'll see to whom it is addressed.

7 **MR. KINGSLEY:** This is -- objection. This is going  
8 to be hearsay.

9 **THE COURT:** Well --

10 **MR. BRUGNARA:** Can I put it on the screen,  
11 your Honor?

12 **THE COURT:** Can I see it first?

13 (Document handed up to the Court)

14 **THE COURT:** All right. I agree with the Government.  
15 This is going to be hearsay, and is not admissible.

16 (Document handed down)

17 **BY MR. BRUGNARA:**

18 **Q** Mr. Maibaum, did Rose Long tell you that -- did Rose Long  
19 tell you that I wasn't expecting her when she arrived --

20 **MR. KINGSLEY:** Objection.

21 **BY MR. BRUGNARA:**

22 **Q** -- on April 7th?

23 **THE COURT:** Sustained. Hearsay.

24 (Off-the-Record discussion between Mr. Brugnara and  
25 Counsel)

1 **BY MR. BRUGNARA:**

2 **Q** Mr. Maibaum, do you have any knowledge of what Ms. Long's  
3 expectations were regarding whether or not she was going to be  
4 present at the delivery of the art in question?

5 **A** Yes.

6 **Q** And what were those expectations?

7 **A** Those expectations were that she was going to fly out to  
8 San Francisco, I believe on a Saturday preceding the shipment's  
9 arrival and that she would be present when the shipment arrived  
10 at your facility. At your home.

11 **Q** So does it surprise you to now learn that in fact, she  
12 wasn't expected --

13 **MR. KINGSLEY:** Objection.

14 **THE COURT:** Sustained.

15 (Off-the-Record discussion between Mr. Brugnara and  
16 Counsel)

17 **BY MR. BRUGNARA:**

18 **Q** So Mr. Maibaum, the email that you read earlier is not  
19 your accurate recollection of what your understanding was then,  
20 on April 1st?

21 **MR. KINGSLEY:** Objection.

22 **THE COURT:** Sustained. Sustained. You're referring  
23 to something that's not in evidence, this is not going to get  
24 in evidence with this witness, and maybe not ever, because it  
25 sure is hearsay.

1           **MR. BRUGNARA:** Okay.

2           **THE COURT:** And you just can't go there. I think you  
3 should move to something else.

4           **MR. BRUGNARA:** Okay. Let's move ahead, then.

5 **BY MR. BRUGNARA:**

6 **Q** Mr. Maibaum, why, why were you so interested in this  
7 transaction, since it was an arms-length sale to Rose Long, and  
8 for all purposes it was completed once you two completed your  
9 sale?

10           Why were you interested thereafter?

11           **MR. KINGSLEY:** Objection. He didn't testify he was  
12 interested.

13 **BY MR. BRUGNARA:**

14 **Q** Mr. Maibaum, were you interested in the sale of the art in  
15 question here between Rose Long and Brugnara?

16 **A** I was interested in the sale to Rose Long.

17 **Q** Were you interested in the sale between Rose Long and  
18 Brugnara?

19 **A** I don't know what you mean by "interested." Can you  
20 clarify?

21 **Q** Well, were you in communications with attorneys, regarding  
22 the transaction between Long and Brugnara?

23           **MR. KINGSLEY:** Objection, privileged.

24 **BY MR. BRUGNARA:**

25 **Q** Were you in --

1           **THE COURT:** No, it is not privileged. The content  
2 would be privileged, but whether or not lawyers were involved  
3 is not privileged, itself.

4           Are you talking about before the deal was done? Or after  
5 the deal was done?

6 **BY MR. BRUGNARA:**

7 **Q** After you sold the art to Ms. Long, did you engage counsel  
8 regarding anything that has to do with a possible sale between  
9 Long and Brugnara?

10 **A** Well, let's be clear. Before the art was shipped, we had  
11 a transaction --

12 **Q** That is a yes-or-no question.

13           **THE COURT:** No --

14           **MR. BRUGNARA:** I'll rephrase it.

15 **BY MR. BRUGNARA:**

16 **Q** Did you engage counsel --

17           **THE COURT:** He is going to get --

18 **BY MR. BRUGNARA:**

19 **Q** -- after you completed your sale between Maibaum and Long,  
20 regarding the possible sale between Long and Brugnara? Did you  
21 engage counsel or not?

22           **THE COURT:** You may answer that question any way that  
23 you think is fair and complete. Take as much time as you need.

24           And Mr. Brugnara, do not interrupt the witness while he's  
25 answering.



1 Go ahead.

2 **THE WITNESS:** Thank you, Your Honor.

3 To be clear, the transaction was between Modernism and  
4 Degas Sculpture Project and Rose Long. We made the sale to  
5 her. I was not interested, had no knowledge of the sale to  
6 Long to you.

7 I did not retain counsel until two or three days after the  
8 art arrived on your premises. And until that time, everything  
9 as far as I knew was -- was happening in the transaction as it  
10 should, and Rose Long was going to pay us.

11 When I realized that Rose Long had told me that perhaps  
12 she would not pay, at that point I retained counsel. So that  
13 was three or four days after the art arrived on your premises.

14 **BY MR. BRUGNARA:**

15 **Q** I understand. Mr. Maibaum, were you told or are you aware  
16 that in fact, Brugnara was given 365 days --

17 **MR. KINGSLEY:** Objection.

18 **BY MR. BRUGNARA:**

19 **Q** -- to conduct due diligence?

20 **MR. KINGSLEY:** He is testifying.

21 **THE COURT:** I'm sorry?

22 **MR. KINGSLEY:** He's testifying through his question.

23 **THE COURT:** Sustained.

24 **BY MR. BRUGNARA:**

25 **Q** Do you have any knowledge from any of the parties

1 regarding your interest in the Long and Brugnara transaction,  
2 that I was given 365 -- Brugnara was given --

3 **MR. KINGSLEY:** Same objection.

4 **THE COURT:** No, there would be a proper way to --  
5 I'll tell you how -- I will ask the question in a way that I  
6 think would be proper, although it may not fully suit  
7 Mr. Brugnara's purposes.

8 But here, prior to the deal and prior to the art being  
9 shipped, was there a point where Ms. Long described to you what  
10 her deal was with the buyer?

11 **THE WITNESS:** Thank your Honor.

12 No, there was absolutely no knowledge on my part that  
13 Ms. Long had given you 365 days. Nor, frankly, would I have  
14 approved the shipment of the art or the sale of the art, had  
15 that been told to me.

16 **MR. BRUGNARA:** All right.

17 **BY MR. BRUGNARA:**

18 **Q** Mr. Maibaum, isn't it true that in your experience,  
19 reputable dealers have contracts of sale that involve deposits  
20 or detailed terms such as the exhibit that was presented in  
21 court yesterday by the attorneys that you provided to Ms. Long  
22 with several terms and conditions of a sale of any -- anything  
23 of pecuniary value?

24 **MR. KINGSLEY:** Objection. Confusing.

25 **THE COURT:** It is confusing; sustained.

1 **BY MR. BRUGNARA:**

2 **Q** Mr. Maibaum, I'll try to simplify this.

3 Mr. Maibaum, is it your experience in the -- as a  
4 businessman, to have a detailed meeting of the minds  
5 memorialized in a written document regarding the sale of  
6 anything of value?

7 **A** That is certainly my practice.

8 **Q** Don't you think, Mr. Maibaum, in your experiences  
9 worldwide, that's the practice of any prudent businessman or  
10 businesswoman?

11 **A** It should be.

12 **Q** Are you aware, Mr. Maibaum, there's absolutely no written  
13 contract between Long and Brugnara?

14 **MR. KINGSLEY:** Objection.

15 **BY MR. BRUGNARA:**

16 **Q** Based upon the statement you said of your understanding of  
17 the transaction?

18 **MR. KINGSLEY:** Objection.

19 **THE COURT:** Sustained.

20 (Off-the-Record discussion between Mr. Brugnara and  
21 Counsel)

22 **BY MR. BRUGNARA:**

23 **Q** Mr. Maibaum, in your experiences buying and selling fine  
24 art, have you ever sold a piece of art that had a possible  
25 value of the tens of thousands of dollars or hundreds of

1 thousands of dollars, without some form of written meeting of  
2 the minds, memorializing a contract or some other written  
3 instrument outlining the terms of the transaction?

4 **A** Not to my recollection.

5 **Q** Mr. Maibaum, are you familiar with the basic terms of what  
6 a legally-binding contract is?

7 **MR. KINGSLEY:** Objection. This will call for a legal  
8 conclusion.

9 **MR. BRUGNARA:** Your Honor, you already stated in  
10 limine, said a contract is -- is material to this case.

11 **THE COURT:** I need to say, since that comment was  
12 made to the jury, the government does not need to prove in this  
13 case that there was or was not a contract.

14 What the Government needs to prove for wire fraud or mail  
15 fraud are elements that I will tell you at the end of the case.

16 It is possible that in some ways, the existence or  
17 non-existence of a contract could have relevance to some of the  
18 facts and circumstances of the case, so that's why you can  
19 inquire about it. But, it is not necessary for the Government  
20 to prove there was a contract in this case. That's not -- that  
21 is not an element of proof. So --

22 **BY MR. BRUGNARA:**

23 **Q** Mr. Maibaum, are you aware that Rose Long solicited  
24 Brugnara in this transaction?

25 **MR. KINGSLEY:** Objection. He's testifying. Hearsay.

1           **THE COURT:**   So --

2           **MR. KINGSLEY:**   These are all proper questions for  
3   Rose Long.

4           **MR. BRUGNARA:**   Your Honor, he's telling me what I can  
5   ask.   I can ask him, I can ask her.   I asked him:   Are you  
6   aware simply --

7           **THE COURT:**   But unless he was sitting there with her  
8   at the time she composed the email or the phone call, how would  
9   he even know?

10          **MR. BRUGNARA:**   Well, Your Honor, if you read the  
11   District Court filing that Ms. Long claims, she claimed --

12          **MR. KINGSLEY:**   Objection, he's talking --

13          **THE COURT:**   That's hearsay.

14          **MR. KINGSLEY:**   Not in evidence.

15          **MR. BRUGNARA:**   That's why I'm asking the question.  
16   I'm asking the question --

17          **THE COURT:**   You were just eliciting hearsay.   I'm  
18   going to sustain that.   I think you need to take a couple more  
19   minutes and wind up your examination.

20          **MR. BRUGNARA:**   Okay.

21   **BY MR. BRUGNARA:**

22   **Q**    Mr. Maibaum, isn't it true that in one of your FBI  
23   interviews you stated that the bronze that was purportedly  
24   shipped through -- to -- to Long -- let me backtrack that.

25         Mr. Maibaum, when you sold the bronze Valsuani --

1 A The Degas.

2 Q -- attributed-to-Degas bronze Valsuani to Ms. Long, did  
3 she take possession of it?

4 A Two points. Number one, it's not attributed. It is an  
5 authentic bronze by Degas. And number two, I do not know she  
6 took possession of it. The bronze was transferred I believe to  
7 her at Cirkers. Whether she actually physically took  
8 possession, I don't know.

9 Q So you're saying you didn't give instructions to Cirkers  
10 to take it out of your possession and forward it to the Sea  
11 Cliff house?

12 A No. I gave Cirkers instructions to release it from my  
13 room at Cirkers, and put it in her room at Cirkers. From that  
14 point on, I do not know the disposition.

15 Q Oh, okay.

16 A Or, I cannot attest to the disposition.

17 Q Regarding the attributed-to-Degas --

18 A Excuse me; it's not attributed.

19 Q Okay. Mr. Maibaum, does that come from the succession's  
20 committee's determination?

21 A It does, and from the validation from ten museums,  
22 including the Hermitage.

23 Q Okay. Mr. Maibaum, the succession committee of Degas, was  
24 that the Degas heirs? Or, excuse me, the descendants of Degas?

25 A Yes, the Succession Degas are the heirs of the artist.

1 That is correct.

2 Q Isn't it true, Mr. Maibaum, that Degas had no children?

3 A That is correct.

4 Q Isn't it true, Mr. Maibaum, that his only living relative  
5 was either a first or second cousin who was a nun in a convent?

6 A That's not exactly correct.

7 Q Isn't it true, Mr. Maibaum, that the succession committee  
8 that validates the authenticity of these bronzes a hundred  
9 years after his death are in fact the descendants of the  
10 benefactor of the nun's will and testament, whereas it was a  
11 friend, but not, in fact, a blood relative, obviously, of the  
12 nun?

13 MR. KINGSLEY: Objection. Compound question.

14 THE COURT: In your own words, please try to explain  
15 what Mr. Brugnara is getting at to the jury.

16 THE WITNESS: I would be happy to.

17 THE COURT: Please.

18 THE WITNESS: Under French law, the heirs of the  
19 artist or those who inherit the heirs -- the heirs of the  
20 artist's estate are the ones who have the right to  
21 authenticate. And they bring in outside experts to look at the  
22 works of art, and do whatever due diligence they need to be  
23 done, in order to interpret and qualify the authenticity of  
24 particular works of art. And in this case, the Succession  
25 Degas did just that.

1 **BY MR. BRUGNARA:**

2 **Q** Okay. But you said they were in fact the heirs, so I  
3 guess from a legal standpoint that may be true. But would you  
4 say from a layperson's standpoint who reads a Succession Degas  
5 Committee comprised of the living heirs of an individual would  
6 make a reasonable determination that in fact there would be  
7 some bloodline succession, and not, you know, third person  
8 removed from a deceased nun, based on her -- her signing?

9 **MR. KINGSLEY:** Objection. Unintelligible.

10 **MR. BRUGNARA:** If you follow the bouncing ball, it's  
11 a funny story, and it has a funny question.

12 **THE COURT:** I don't think this is going to lead  
13 anywhere. Sustained. This is irrelevant.

14 **MR. BRUGNARA:** Okay. Well, I think it is relevant.

15 **THE COURT:** Well, I'm the Judge. I get to decide.

16 **BY MR. BRUGNARA:**

17 **Q** Okay, let's talk about something that is relevant.

18 What was sent, are you aware that Ms. Long purportedly  
19 sent a bronze sculpture that she had owned for several years to  
20 Brugnara?

21 **A** No. That's not correct.

22 **Q** That is not your understanding. So are you aware that  
23 Ms. Long told me she was sending me a bronze that she's had in  
24 her possession for many years?

25 **MR. KINGSLEY:** Objection, hearsay.



1                   **THE COURT:** Sustained.

2                   **BY MR. BRUGNARA:**

3                   **Q**     Okay. Mr. Maibaum, the bronze that was packed from  
4     Cirkers and sent to Sea Cliff that you said was first forwarded  
5     to Ms. Long, is it true that it was EF D --

6                   **A**     To the best of my knowledge, yes.

7                   **Q**     Okay. So, it could have been something other than EF D?

8                   **A**     Perhaps, but I have -- I can't imagine why it would have  
9     been.

10                  **Q**     How could it have possibly been another one, other than EF  
11     D?

12                  **A**     I don't understand your question.

13                  **Q**     Well, you said it possibly could have been a bronze other  
14     than EF D. And I said, how possibly could it have been another  
15     bronze than EF D?

16                  **A**     Well, because Rose Long also owned a bronze from the same  
17     edition.

18                  **Q**     Okay. Were you there when the bronze was packed at  
19     Cirkers?

20                  **A**     No, I was not.

21                  **Q**     So you weren't there. You don't know what was packed in  
22     the box.

23                  **A**     That is correct.

24                  **Q**     Okay.

25                  **THE COURT:** All right. Are we done?

1                   **MR. BRUGNARA:** No.

2                   **BY MR. BRUGNARA:**

3                   **Q**     Mr. Maibaum, isn't it true that EF D has an attorney's  
4     lien, or an attorney has an equity position on that particular  
5     bronze?

6                   **A**     That is not correct.

7                   **Q**     Isn't it true, Mr. Maibaum, that you told the FBI that --  
8     in an interview, that the attorney that you had previous, a  
9     legal matter with, had an equity interest in the EF D bronze?

10                  **A**     He did, but that was transferred to another bronze that we  
11     had. So it was not -- so it was -- at the point of the  
12     transfer to Rose Long, he did no longer have an equity interest  
13     in the bronze.

14                  **Q**     Okay. Well, I'm glad that's cleared up. All right.

15                  **A**     And it wasn't a lien. It was an equity interest. It's  
16     quite different.

17                  **Q**     I agree. Regarding -- I have a question. You talks about  
18     the French law in court yesterday and then again today, and  
19     then I believe it was covered in the FBI interview.

20                         Can you clarify or explain what you mean by the stamp  
21     "Reproduction"? How it doesn't apply to the first 12, and then  
22     the subsequent 12?

23                         Is that what you testified to?

24                  **A**     No, that is incorrect. The first 12 are also stamped  
25     "Reproduction."

1 In other words, if the total edition is more than 12, each  
2 bronze in the edition, the first 12 included, have to be  
3 stamped with the word "Reproduction."

4 Q Isn't it true, Mr. Maibaum, that you recently settled a  
5 claim on the missing crate with your insurance carrier for  
6 approximately \$50,000?

7 A No.

8 Q Well, can you tell the Court, Mr. Maibaum, how much you  
9 settled the claim for?

10 A I cannot because under -- under the agreement we signed  
11 with the insurance company, we're not allowed to divulge the  
12 information.

13 THE COURT: The information has no relevance. I'm  
14 not going to require him to get into that.

15 BY MR. BRUGNARA:

16 Q Isn't it true, Mr. Maibaum, that you sold Ms. Long one of  
17 the Valsuani Degases for approximately \$200,000?

18 A In 2001, yes, 14 years ago.

19 Q And isn't it true, Mr. Maibaum, in --

20 A Excuse me. I don't know if it was 200,000. I don't  
21 recall the exact amount.

22 Q Approximately.

23 A I think it was closer to 300,000. But I don't recall the  
24 exact amount.

25 Q Are you aware, Mr. Maibaum, that Ms. Long gave an

1 interview with the FBI stating that --

2 **MR. KINGSLEY:** Objection.

3 **THE COURT:** Sustained.

4 **MR. BRUGNARA:** Okay.

5 **BY MR. BRUGNARA:**

6 **Q** Mr. Maibaum, did you sell her -- did you sell to Ms. Long  
7 during that same period an equity position or a limited  
8 partnership position, in the Degas Sculpture Project?

9 **A** Never.

10 **Q** Would it surprise you to learn that --

11 **THE COURT:** Sustained.

12 **MR. BRUGNARA:** Okay.

13 **BY MR. BRUGNARA:**

14 **Q** So Ms. Long has no equity or other -- otherwise interest  
15 in the Degas Sculpture Project?

16 **A** That is correct.

17 **Q** All right.

18 **MR. BRUGNARA:** I have no further questions,  
19 your Honor.

20 **THE COURT:** All right. You're done. Thank you.

21 I need to say to the jury that many times, statements were  
22 made by Mr. Brugnara. Those are not evidence. The only thing  
23 that is evidence is what the witness admitted to or stated on  
24 his own. Things that were read from were not evidence unless  
25 they were admitted in evidence as a marked exhibit.

1 So please be mindful to keep that straight.

2 The same rule goes for the Government. It works both ways  
3 for both sides.

4 All right. Any redirect examination?

5 **MR. KINGSLEY:** Yes, Your Honor.

6 **REDIRECT EXAMINATION**

7 **BY MR. KINGSLEY:**

8 **Q** I would like to start by going back to some of the  
9 questions Mr. Brugnara was asking you about the Succession  
10 Degas. And I'm going to show you what's been previously marked  
11 as Government Exhibit 29.

12 **MR. KINGSLEY:** May I approach, your Honor?

13 **THE COURT:** You may.

14 (Witness examines document)

15 **BY MR. KINGSLEY:**

16 **Q** Can you take a moment to look at that document, and let me  
17 know if you recognize it.

18 **A** I do.

19 **Q** And can you tell me what it is?

20 **A** This is the certificate of authenticity for "Little  
21 Dancer" bronze, EF D. Stamped "EF D."

22 **Q** In what language is the first page of that document?

23 **A** It is in French.

24 **Q** Do you understand written French?

25 **A** Yes.

1 Q Can you turn to the second page of the exhibit as well,  
2 and let me know what that is.

3 (Witness examines document)

4 A This is a -- excuse me. This is an English translation of  
5 the French language.

6 Q And is the translation consistent with your understanding  
7 of French?

8 THE COURT: Well, that's not quite the right  
9 question.

10 MR. BRUGNARA: Can I see that, Ben?

11 MR. KINGSLEY: Sure.

12 (Document tendered to Mr. Brugnara.)

13 THE COURT: Mr. Brugnara's entitled to see it. But  
14 while I'm interrupting, the proper question is not whether it's  
15 consistent with. It's whether or not it's accurate. That's  
16 the question you have to ask.

17 MR. KINGSLEY: I think the relevance of this document  
18 mostly goes to what Mr. Maibaum believed about the sculpture.  
19 But I can show the Court the document and --

20 THE COURT: Let's move it along, please.

21 (Witness examines document)

22 BY MR. KINGSLEY:

23 Q Is the English translation accurate, an accurate  
24 translation of the French?

25 (Witness examines document)

1 **A** Yes.

2 **Q** Okay. So, you said this is from the Succession Degas.  
3 And Mr. Brugnara asked you some questions about this, but can  
4 you tell me what the Succession Degas is?

5 **A** Yes. The Succession Degas is comprised of the living  
6 legal heirs -- legal heirs -- of the artist.

7 **Q** Okay. And did you have this document at the time that you  
8 sold the Degas sculpture to Ms. Long that was involved in this  
9 transaction?

10 **A** Yes.

11 **Q** And can you tell me which Degas "Little Dancer" sculpture  
12 had this document refers to?

13 **A** This document refers to the "Little Dancer" bronze that we  
14 sold to Rose Long.

15 **Q** And how do you know that?

16 **A** Because it matches the stamp on the bronze to the  
17 certificate which details that this is the bronze EF D, which  
18 conforms to the stamp on the bronze.

19 **MR. KINGSLEY:** Your Honor, the Government moves  
20 Exhibit 29 into evidence.

21 **THE COURT:** Any objection?

22 **MR. BRUGNARA:** No, Your Honor.

23 **THE COURT:** All right. 29 is received.

24 (Trial Exhibit 29 received in evidence)

25 (Document displayed)

1           **THE COURT:** Can I ask for a clarification of your  
2 last answer?

3           **THE WITNESS:** Sure.

4           **THE COURT:** You said the one sold to Rose Long, but  
5 my memory of your testimony that is there were two.

6           So are you talking about the earlier one or are you  
7 talking about the one that was destined for San Francisco?

8           **THE WITNESS:** Thank you for the clarification, your  
9 Honor. The answer is this refers to the bronze that was sold  
10 to Rose Long. The earlier bronze, as I recall, was stamped  
11 with the letter "B" like "Boy," whereas this bronze was stamped  
12 "EF D" which conforms to this certificate.

13           **THE COURT:** And is that the one that you thought was  
14 destined for California?

15           **THE WITNESS:** Well, destined for Rose Long, yes.

16           **THE COURT:** All right. Thank you.

17           Go ahead.

18           **MR. KINGSLEY:** Can we publish Exhibit 29 to the jury,  
19 please.

20           **THE CLERK:** It should be.

21 **BY MR. KINGSLEY:**

22 **Q** Mr. Maibaum, can you turn to Page 2 of the English  
23 translation, please.

24 **A** Sure.

25 (Document displayed)



1           **MR. KINGSLEY:** And can you zoom in on the middle  
2 paragraph, Ms. Mallory, through the original letter, "We hereby  
3 confirm..."

4           (Document displayed)

5 **BY MR. KINGSLEY:**

6 **Q** Mr. Maibaum, can you read this part of the letter and just  
7 let me know what it means, please.

8           (Witness examines document)

9 **A** Do you want me to read the quote?

10 **Q** Could you read it out loud?

11 **A** Sure (As read):

12 "Through this original letter, we hereby confirm..."

13 That's the Succession Degas.

14 "...that the Degas bronze sculpture from the 1997 edition  
15 which bears the casting reference 'EF D'..."

16 That's the stamp on the bronze.

17 "...is one of the cast bronzes of *La Petite Danseuse de*  
18 *Quatorze Ans*, Little Dancer, Age 14, recognized as authentic by  
19 the Estate."

20 **Q** And what does that mean to you, given your expertise?

21 **A** This means under French law and by worldwide recognition,  
22 this bronze is authentic.

23 **Q** And could you tell me a little bit about the French law  
24 that gives the Succession Degas the authority to say something  
25 like this?

1 A Well, as stated earlier, basically, under French law for  
2 French artists, the living legal heirs of an artist have the  
3 sole right to authenticate works of art by that particular  
4 artist.

5 Q So under French law, this is considered -- the EF D  
6 sculpture is accepted to be an authentic Degas sculpture?

7 A Without question.

8 Q Now, you testified about a different sculpture that you  
9 sold to Rose Long in 2001. Correct?

10 A Correct.

11 Q And you said that that was EF B?

12 A No, just the letter "B" like "Boy."

13 Q Okay. And is there any distinction physically between  
14 that sculpture and the EF D sculpture?

15 A No.

16 Q Do you -- is there any reason you would think there would  
17 be a difference between the value of that sculpture and the EF  
18 D sculpture?

19 A No, each bronze in this edition which has a certificate of  
20 authenticity as it should, would have the same value. More or  
21 less the same value.

22 Q Okay. Mr. Brugnara asked you some questions about where  
23 you believe this art was going. And you testified that you  
24 thought it was going to a museum, correct?

25 A Correct.

1 Q What is the practice in the art industry with regards to  
2 shipping art to a museum? Does that happen?

3 A Yes, of course.

4 Q And would you consider that to be common practice?

5 A Yes.

6 Q So if you believed it was going to a museum, would there  
7 be anything unusual about a transaction where the art was going  
8 directly there?

9 A No. That would be a normal transaction.

10 Q Okay. I want to go back to the lawsuit between you and  
11 Rose Long very briefly. Would you have brought that lawsuit if  
12 you had gotten all the artwork back, in question?

13 A No. No.

14 Q Okay.

15 (Off-the-Record discussion between counsel)

16 MR. KINGSLEY: No further questions, your Honor.

17 THE COURT: All right. Anything within the scope of  
18 what we just heard, Mr. Brugnara?

19 MR. BRUGNARA: Yes. A few questions.

20 RECROSS EXAMINATION

21 BY MR. BRUGNARA:

22 Q Mr. Maibaum, regarding the EF D and its similarity to the  
23 M that was sold to Rose Long --

24 A B, not M.

25 Q Excuse me?

1 A Letter B, not M.

2 Q Okay, letter B. Mr. Maibaum, there's actually two  
3 committees that you have authenticate the Degas. One is the --  
4 correct me, or I'm asking you this: One is, as you just said,  
5 the Succession Degas Committee?

6 A Succession Degas, correct.

7 Q Which is the heirs. And then there's the second  
8 committee, the Committee Edgar Degas?

9 A Comité Edgar Degas, correct.

10 Q I don't speak French, excuse me.

11 A That's okay.

12 Q But those are the two certificates that you issue when you  
13 or your company that oversees the sale of these, the Valsuani  
14 Degas Project -- or what's the name of the firm?

15 A The Degas -- the Degas Sculpture Project for the Valsuani  
16 bronzes.

17 Q They issue the two certificates from the two committees,  
18 correct?

19 A Not exactly. Normally what happens is we provide the  
20 Succession Degas certificate first. And when the sculpture is  
21 paid for, then we provide the Comité Degas certificate.

22 Q I see. And who has the Comité certificates?

23 A The Comité Degas holds the certificates.

24 Q And where are they located?

25 A In Paris.

1 Q Okay. So, on this particular transaction, do you remember  
2 having an interview with the FBI on or about October 9, 2014?

3 A Probably.

4 Q Do you remember telling the FBI interviewer that you,  
5 Maibaum, did not have a certificate from the Comité Degas for  
6 the "Little Dancer" EF D that was being sent to Sea Cliff?

7 A No. What I said was words to the effect that we will  
8 provide the certificate upon payment. I did not say we didn't  
9 have the certificate.

10 Q Okay. So are you telling me that the FBI report that  
11 states "Maibaum did not have a certificate..."

12 MR. KINGSLEY: Objection.

13 THE COURT: Sustained. Sustained.

14 BY MR. BRUGNARA:

15 Q So that's--

16 A If I may be allowed to clarify, I didn't physically have  
17 the certificate. It was being held in France. And upon  
18 payment, it would be sent to me and returned to the buyer, Rose  
19 Long.

20 Q And what would happen if a buyer didn't get that  
21 certificate from the committee in France?

22 A Well, if the buyer purchased the bronze and paid for it,  
23 they would have the certificate. So that's an illogical kind  
24 of question, in my opinion.

25 Q So you are saying that -- that the French committee that's

1 in -- where are they located? In Paris?

2 **A** In Paris, correct.

3 **Q** So you are saying they would be flying out to Sea Cliff?

4 **A** No, I didn't say that. What I said was that once the  
5 bronze was paid for, the Comité would provide the certificate  
6 to me, and I would in turn provide it to Rose Long.

7 **Q** What if the Comité didn't provide the certificate? Then  
8 what would happen?

9 **A** Well, they would.

10 **Q** But what if they didn't?

11 **MR. KINGSLEY:** Objection.

12 **MR. BRUGNARA:** It's not an argumentative question.

13 **THE COURT:** We have exhausted this topic. We are  
14 going to go to something else.

15 **BY MR. BRUGNARA:**

16 **Q** So you're saying that that certificate validates the  
17 authenticity of a Valsuani Degas bronze. Correct?

18 **A** It, among others, validates, plus other -- plus other  
19 things that validate the authenticity.

20 **Q** There's two certificates. This is a very confusing, even  
21 for experienced art --

22 **MR. KINGSLEY:** Objection, arguing.

23 **BY MR. BRUGNARA:**

24 **Q** Let's clarify this so we have a jury that understands.

25 There's two certificates that are issued to validate the

1 sale of a Valsuani Degas "Little Dancer" as part of this  
2 transaction. One from the Comité Degas, and one from the Degas  
3 Succession Committee. Is that correct?

4 **A** They don't validate the sale. They validate the  
5 authenticity of the sculpture.

6 **Q** Okay, they validate the authenticity. And is it isn't it  
7 true that when somebody purchases a Valsuani, they would expect  
8 it to be authenticated when they're making that payment and  
9 making that purchase?

10 **A** That is correct.

11 **Q** Okay. So you're telling me the procedure, is it true that  
12 you pay first, and then if you get the certificate, good for  
13 you, and if you don't, well, hey, sorry, out of luck?

14 **A** No, that is not at all what I'm saying. What I'm saying  
15 is if you pay for the sculpture, you would have the  
16 certificate.

17 **Q** So you are saying that you control the Comité Degas?

18 **A** I don't control the Comité Degas.

19 **Q** How can you represent to anybody here what they will do?

20 **A** Because this is the standard procedure.

21 **Q** Okay. And I'm asking you -- because what normally  
22 happens, as you know, in a purchase, you get the benefit of  
23 what you're paying for upon the completion of the transaction.  
24 And now you are telling me that you don't get the benefit until  
25 a Comité in France whose outside the jurisdiction of this

1 country decides whether or not they want to issue the  
2 certificate.

3 **A** The Comité Degas is holding the certificate.

4 **Q** Mr. Maibaum, isn't it true that on Rose Long's -- a bronze  
5 that she didn't send, that you sold her 12 years ago, you  
6 issued to her a Comité Edgar Degas certificate?

7 **A** Yeah, that's correct, because she paid for it.

8 **Q** Okay, okay, that's correct. So there's a difference  
9 between Rose Long's Comité-Degas-certified bronze and the  
10 bronze that was sent to Sea Cliff that didn't have the Comité  
11 Degas certificate, that they would have to wait and hope and  
12 cross their fingers that it might be sent from Paris, France,  
13 without any jurisdiction to litigate that if they did not?

14 **A** So you're confirming the bronze was sent to Sea Cliff.

15 **Q** No, I'm saying based upon this case.

16 **A** I'm saying, based on this case, you're --

17 **Q** Well, it may have, it may have been sent to Sea Cliff.  
18 I've always stated it may have been sent to Sea Cliff; it may  
19 not have been sent to Sea Cliff. I don't know.

20 **A** So --

21 **THE COURT:** Let's just ask a question.

22 **MR. BRUGNARA:** Okay, your Honor. The point that I'm  
23 trying to say is: This particular bronze that was assumed sent  
24 to Sea Cliff, assumed delivered to Sea Cliff, it did not have  
25 the Comité Degas certificate.



1           **MR. KINGSLEY:** Objection (Inaudible)

2           **THE WITNESS:** It did have a certificate. It happened  
3 to be located in France.

4 **BY MR. BRUGNARA:**

5 **Q** Okay, it had the Comité Degas certificate in France. But  
6 wouldn't the Comité Degas have to physically see that bronze  
7 before they would issue the certificate?

8 **A** They saw it before it left France.

9 **Q** Yeah, but how do they know the one in Sea Cliff was the  
10 one that was in France, unless they would have to come out and  
11 relook at it?

12 **A** Because they're taking my word and credentials.

13 **Q** So you do control -- I asked you if you controlled them,  
14 and you said no. Now you are admitting that you control the  
15 Comité Degas. And that it's a shell committee.

16           **MR. KINGSLEY:** Objection, argument.

17           **THE COURT:** This is argument.

18           **MR. BRUGNARA:** Your Honor, I don't have any further  
19 questions. Thank you.

20           **THE COURT:** Thank you, thank you. All right. Are  
21 you done?

22           **MR. KINGSLEY:** Can I clarify just one question?

23           **THE COURT:** Just going to open it up again. Go  
24 ahead.

25           **MR. KINGSLEY:** Never mind.

1           **THE COURT:** All right. May the witness step down?

2           **MR. KINGSLEY:** Yes, Your Honor.

3           **THE WITNESS:** Thank you, Your Honor.

4           **THE COURT:** Mr. Brugnara, may the witness be excused  
5 and discharged from the subpoena?

6           **MR. BRUGNARA:** Yes, Your Honor.

7           **THE COURT:** So you are free to leave.

8           (Off-the-Record discussion between Mr. Brugnara and  
9 Counsel)

10           **MR. BRUGNARA:** Oh, your Honor subject to recall,  
11 Counsel suggested.

12           **THE COURT:** All right. I -- you may be subject to  
13 recall. I cannot excuse you from the subpoena yet. But you  
14 are -- you are free to go for now. We will let you know if  
15 you're needed again.

16           I -- let's just leave it at that for now. All right?

17           **THE WITNESS:** Your Honor, I'm scheduled to fly back  
18 to New York where I live, and it would be -- whatever might  
19 come up, can I testify to it now so I don't have to fly back to  
20 San Francisco?

21           **THE COURT:** Well, we will -- I -- we don't know  
22 what's going to come up. And, you are the first witness.  
23 There could be other legitimate reasons to recall you, in light  
24 of testimony given by somebody else.

25           But you should go ahead and fly back to New York, and we

1 will give you at least 48 hours' notice before you have to come  
2 back. If you do have to come back. I'm not saying you will.

3 But, under the law, I cannot excuse you if one of the  
4 sides wants to hold you for potential recall. So, I have to do  
5 it that way. So you should get on an airplane and go back  
6 about your business for now.

7 **THE WITNESS:** Thank you.

8 **THE COURT:** Leave the documents here. The lawyers  
9 will take care of them.

10 (Witness excused)

11 **THE COURT:** All right. Who is our next witness?

12 **MS. HARRIS:** Your Honor, the United States calls Rose  
13 Long.

14 **THE COURT:** All right. Let me ask the jury, can you  
15 -- can we continue for a bit before we take our break, or do  
16 you -- does anyone over there need a break?

17 All right. We are going to go about 30 minutes and then  
18 we will take a break. So let's bring in the next witness.

19 Raise your right hand. The clerk will swear you in.

20 **ROSE RAMEY LONG, PLAINTIFF'S WITNESS, SWORN**

21 **THE CLERK:** Thank you.

22 **THE COURT:** All right. Welcome. Please have a seat.

23 **THE WITNESS:** Thank you.

24 **THE COURT:** Now, you see how the microphone will move  
25 all around? Yours does, too. You need to speak into it so

1 everybody can hear you.

2 Why don't you say your name.

3 **THE WITNESS:** Rose Ramey Long.

4 **THE COURT:** Pull it up a little higher so it'll catch  
5 your voice.

6 **THE WITNESS:** Rose Ramey Long.

7 **THE COURT:** Can everybody hear it?

8 Looks like everyone can hear.

9 All right. Go ahead, Ms. Harris.

10 **DIRECT EXAMINATION**

11 **BY MS. HARRIS:**

12 **Q** Good morning, Ms. Long. Can you spell your middle name  
13 for the record?

14 **A** Yes. R-A-M-E-Y.

15 **Q** Other than the name Rose Long, do you use any other  
16 surname?

17 **A** Yes, I do.

18 **Q** What is that?

19 **A** Littlejohn is my -- go ahead.

20 **Q** What, is Littlejohn your maiden name?

21 **A** Yes, it is.

22 **Q** Are you currently married?

23 **A** No.

24 **Q** Was Long your married name?

25 **A** Yes, it was.

1 Q And, what name do you currently use as your surname?

2 A Littlejohn.

3 Q Thank you. Where are you currently employed?

4 A I'm self-employed.

5 Q What is the name of your business?

6 A It's Rose Long -- Rose Ramey -- I have to get used to it.

7 Rose Ramey Littlejohn Fine Arts.

8 Q Prior to it being known as Rose Ramey Littlejohn Fine  
9 Arts, was it known as Rose Long Fine Arts when your married  
10 name was Rose Long?

11 A Yes, it was.

12 Q Where is your company located?

13 A In New York.

14 Q What type of business is Rose Long Fine Arts?

15 A It's the purchasing of art that I appreciate, and then  
16 eventually sell.

17 Q Approximately when did you start your business?

18 A Which one?

19 Q Rose Long Fine Arts.

20 A Oh, Rose Long Fine Arts was in '79, when I married.

21 THE COURT: I didn't hear.

22 THE WITNESS: In '79, 1979.

23 THE COURT: '79, all right.

24 BY MS. HARRIS:

25 Q How long have you been an art dealer, approximately?

1 A Thirty- -- I guess -- -two years, about now.

2 Q Did you have any other art business before you started  
3 Rose Long Fine Arts?

4 A Yes, I did.

5 Q Where is most of your fine artwork stored?

6 A It's at Cirkers.

7 Q Where is Cirkers located?

8 A It's 444 55th, West 55th Street.

9 Q In New York?

10 A In New York.

11 Q What type of business is Cirkers?

12 A Cirkers is a storage and also will exhibit your works of  
13 art individually, and also in longistics (Phonetic).

14 Q Do you also live in New York?

15 A Yes, I do.

16 Q Do you reside anywhere else besides New York during part  
17 of the year?

18 A Yes.

19 Q Where is that?

20 A Memphis, Tennessee.

21 Q Have you gone to school to study art conservation and  
22 restoration?

23 A Yes, I have.

24 Q Can you describe for us your formal education in art?

25 A I attended NYU, strictly in the restoration and

1 conservation department. And after approximately two years, I  
2 also was attending Beaux Arts in France at the same time.

3 Q Did you receive any degree from NYU?

4 A No.

5 Q And you mentioned you also attended the Academy of Beaux  
6 Arts. What did you study there?

7 A The same thing. Conservation, restoration.

8 Q Have you worked under mentors that are recognized as  
9 experts in the field of art restoration?

10 A Yes, I have.

11 Q And can you describe those mentors or experts for us?

12 A Gustaf Berger is a wonderful mentor, and also Irving Yamet  
13 was another --

14 Q Can you pull the microphone a little closer to you?

15 A Okay.

16 Q Thank you. Have you taught at any museums during your  
17 career in the art conservation?

18 A Yes. I've lectured and taught my -- restoration works to  
19 the -- their conservation departments.

20 Q Which museums have you taught and lectured at?

21 A At the Met, and also the Louvre and -- well, the Brooks  
22 Museum in Memphis. It's been several, so I don't remember them  
23 all.

24 Q Have you met any well-known artists throughout your  
25 career?

1 A Yes, I have.

2 Q Can you give us some of the names of the artists you have  
3 been acquainted with?

4 A Because of one of my mentors, Irving Yamet, I was able to  
5 meet Picasso, and Dalí, and Chagall. And then I met on my own  
6 while attending Beaux Arts, because they were neighbors, I met  
7 David Hockney and Jean DuBuffet.

8 Q What is an art authenticator?

9 A It's someone that knows how to determine whether something  
10 is original or not.

11 Q Do you have experiences as an art authenticator?

12 A Yes, I do.

13 Q Can you briefly describe your experience to us as an art  
14 authenticator?

15 A Well, while studying conservation, that part of it, you  
16 have to be able to determine -- and sometimes it's through  
17 science, sometimes it's just through knowledge, automatically  
18 from, you know, just your experiences.

19 But, you have to be able to take a piece of -- a chip of a  
20 painting from behind or under the frame or something, and be  
21 able to authenticate it as being the right period and the right  
22 type of paint that particular artist would have used.

23 Q Do you know someone named Luke Brugnara?

24 A Yes, I do.

25 Q Do you also know someone named Catherine Dickson?



1 A Yes, I do.

2 Q Who is Catherine Dickson?

3 A Catherine Dickson is a friend of mine in Florida.

4 Q How did you -- when did you first come into contact with  
5 Luke Brugnara?

6 A Catherine Dickson called me and said that --

7 Q Don't tell us what she said, please.

8 A Okay. Catherine Dickson is the one that told me about  
9 Luke Brugnara.

10 Q And can you tell us when you first came into contact with  
11 Mr. Brugnara?

12 A Approximately ten to eleven years ago. I'm not certain  
13 exactly.

14 Q And was it Ms. Dickson that connected you with  
15 Mr. Brugnara?

16 A Yes, it was.

17 Q Did you sell Luke Brugnara any artwork approximately ten  
18 or eleven years ago, after Ms. Dickson connected you and  
19 Mr. Brugnara?

20 A Yes, I did.

21 Q Can you describe for us your first business transaction  
22 that you had with Mr. Brugnara?

23 A Luke Brugnara purchased a beautiful Renoir called *Gabriela*  
24 *del la Rose*.

25 Q Did you personally own the Renoir at the time that you

1 sold it to Mr. Brugnara?

2 A Yes, I did.

3 Q Who did you buy it from?

4 A From Walter Maibaum.

5 Q Who is Mr. Maibaum?

6 A Mr. Maibaum is another art dealer in New York.

7 Q Are you familiar with the term "earnest money"?

8 A Yes, I am.

9 Q What is earnest money?

10 A Earnest money is what you determine together that will be  
11 sent in advance for the purpose of being able to view the work  
12 of art that you send to a storage facility.

13 Q Is earnest money akin to a deposit?

14 A Yes.

15 Q Drawing your attention to the purchase for the Renoir  
16 "Gabriela la Rosa" -- am I pronouncing that correctly, it is?

17 A It's "Gabriela de la Rose," that's all right.

18 Q The Renoir?

19 A Yes.

20 Q What were the terms of that transaction, the Renoir?

21 A Well, after the discussion and sending him, you know,  
22 photos and authentication, he was to -- the earnest money was  
23 put into an escrow account.

24 Q Let me ask you this: Did Mr. Brugnara pay you earnest  
25 money or a deposit for the Renoir?

1 A Yes, he did.

2 Q Was that before it was shipped?

3 A Yes, it was.

4 Q How much did Mr. Brugnara pay you as a deposit for the  
5 Renoir before it was shipped?

6 A \$25,000.

7 Q Approximately how much did you charge the Defendant for  
8 the Renoir?

9 A 500,000.

10 Q After Mr. Brugnara paid you the \$25,000 deposit, what was  
11 the next step in the transaction?

12 A I -- I was prepared to ship to ShipArt.

13 Q What is ShipArt?

14 A ShipArt is the same as like Cirkers, it is also a storage  
15 facility. And, also they are -- it's in security until the  
16 person that is supposed to be seeing had a particular piece has  
17 a code to see it.

18 Q Does ShipArt actually physically ship works of fine art?

19 A Yes, they do.

20 Q Did Luke Brugnara make full payment to you for the Renoir  
21 after it was shipped to him?

22 A Yes, he did.

23 Q After you sold Mr. Brugnara the Renoir some ten or eleven  
24 years ago, did you sell any other works of art to Luke Brugnara  
25 after the Renoir?

1 A Yes.

2 Q What was the next piece of art you sold Mr. Brugnara?

3 A The next -- the next was a Picasso drawing, six-color  
4 drawing.

5 Q Okay. Approximately when did that sale occur?

6 A Approximately a year after the Renoir.

7 Q Did you own the Picasso drawing that you sold to Luke  
8 Brugnara?

9 A Yes, I did.

10 Q Did Luke Brugnara make full payment for the Picasso?

11 A Yes, he did.

12 Q After you sold Luke Brugnara the Renoir and the Picasso,  
13 did you have any further contact with him until February of  
14 2014?

15 A No.

16 Q I'm now drawing your attention to the time period of  
17 approximately late February, 2014. Did you have any contact  
18 with Luke Brugnara some time in early 2014?

19 A Yes.

20 Q What, if anything, prompted you to contact Mr. Brugnara in  
21 early 2014?

22 A Well, I was ready to sell a few pieces of my art.

23 Q And how was it that Mr. Brugnara came to your radar  
24 screen?

25 A Well, Mr. Brugnara had been telling me since the time he

1 bought the Renoir that he was building a museum. And so, I  
2 thought it was a great idea, that it would be in his museum.

3 Q Did you actually contact Mr. Brugnara in early 2014?

4 A Yes, I did.

5 Q How did you contact him?

6 A By phone.

7 Q What did you and Mr. Brugnara discuss during this first  
8 conversation in early 2014?

9 A I offered him my Picasso -- no, excuse me. A Degas.

10 Q Did Mr. Brugnara express interest in this first telephone  
11 conversation?

12 A Yes, he did.

13 Q After you telephoned Mr. Brugnara in early 2014, did you  
14 follow up with him by email?

15 A I'm sure I did.

16 MS. HARRIS: Your Honor, may I approach the witness?

17 THE COURT: Yes.

18 BY MS. HARRIS:

19 Q I am going to hand you what has been marked as Government  
20 Exhibit 54 for identification.

21 Do you recognize Government Exhibit 54?

22 (Witness examines document)

23 A Yes, I do.

24 Q What is Exhibit 54?

25 A It is an email from me to sftycoon1.

1 Q Was it your understanding that "sftycoon1" was the email  
2 address for Luke Brugnara?

3 A Yes, I did.

4 Q Exhibit 54 is dated March 22, 2014, at 7:26 a.m. Is that  
5 the approximate date and time on which you sent Exhibit 54 to  
6 Mr. Brugnara?

7 A Yes, it is.

8 MS. HARRIS: I offer Government Exhibit 54 into  
9 evidence.

10 THE COURT: Any objection?

11 MR. BRUGNARA: No, Your Honor.

12 THE COURT: Received in evidence.

13 (Trial Exhibit 54 received in evidence)

14 MS. HARRIS: Your Honor, may we publish Exhibit 54?

15 THE COURT: Yes, you may.

16 (Document displayed)

17 BY MS. HARRIS:

18 Q Ms. Long, there are a series of attachments to Government  
19 Exhibit 54.

20 Did those attachments accompany the email that we're  
21 looking at right now, that you sent on March 22, 2014?

22 A Yes, it is.

23 Q And in your email, you say to Mr. Brugnara (As read):

24 "I don't know if you got my first letter, but it is a pleasure  
25 getting back in touch."

1 And then you enclose the PDFs of the artwork. Were the  
2 PDFs that were enclosed in Government Exhibit 54 the artwork  
3 you discussed selling to Mr. Brugnara in the telephone call you  
4 had with him?

5 **A** Yes, it is.

6 **MS. HARRIS:** Your Honor, may I approach the witness?

7 **THE COURT:** You may.

8 **BY MS. HARRIS:**

9 **Q** Handing you what's been marked as Government Exhibit 55  
10 for identification, can you please take a look at Exhibit 55?

11 **A** Yes.

12 **Q** Do you recognize Government Exhibit 55?

13 **A** Yes, I do.

14 **Q** What is Government Exhibit 55?

15 **A** It's an email from Luke to me.

16 **Q** Exhibit 55 is dated March 22, 2014, at 8:45 p.m. Is that  
17 the approximate date and time on which you received Exhibit 55?

18 **A** Yes, it is.

19 **MS. HARRIS:** Your Honor, offer Government Exhibit 55  
20 into evidence.

21 **THE COURT:** Any objection?

22 **MR. BRUGNARA:** No, Your Honor.

23 **THE COURT:** Received. Thank you.

24 (Trial Exhibit 55 received in evidence)

25 **MS. HARRIS:** May we publish it to the jury?

1           **THE COURT:** You may.

2           (Document displayed)

3           **MS. HARRIS:** Ms. Mallory, if you could highlight the  
4 first sentence of Government Exhibit 55 for the jury.

5           (Document displayed)

6 **BY MS. HARRIS:**

7 **Q**     What did Mr. Brugnara say to you in the email that is  
8 Government Exhibit 55, the first sentence of the email?

9           Can you read it for us?

10 **A**    Yes. It's an email from Luke to me, and it says:  
11 "Rose, how much for the art pieces?"

12 **Q**     Let me stop you right there.

13           When Mr. Brugnara said to you "How much for the art  
14 pieces," was it your understanding that that referred to an  
15 exchange of money?

16 **A**     Yes, I did.

17 **Q**     Let's look at the next sentence of Exhibit 55.  
18 Mr. Brugnara asks you another question. Can you read to us  
19 what Mr. Brugnara asked you?

20 **A**     "Who else have you offered them to? Luke."

21 **Q**     Getting to the "Luke," how did Mr. Brugnara sign the email  
22 to you that is Exhibit 55?

23 **A**     "Luke."

24 **Q**     Did you send Mr. Brugnara an email in response to  
25 Government Exhibit 55?



1     **A**     Yes, I did.

2                 **MS. HARRIS:** Your Honor, may I approach the witness?

3                 **THE COURT:** Yes.

4     **BY MS. HARRIS:**

5     **Q**     Showing you what has been marked Government Exhibit 56 for  
6     identification, can you please take a look at Exhibit 56 and  
7     tell us if you recognize it?

8     **A**     Yes, I recognize it.

9     **Q**     What is Government Exhibit 56?

10    **A**     It is an email from me to Luke.

11    **Q**     Exhibit 56 is dated March 23, 2014, at 7:20 a.m. Is that  
12    the approximate date and time which you sent Exhibit 56 by  
13    email to Mr. Brugnara?

14    **A**     Yes, it is.

15                 **MS. HARRIS:** Your Honor, I offer Government Exhibit  
16    56 into evidence.

17                 **THE COURT:** Any objection?

18                 **MR. BRUGNARA:** No, Your Honor.

19                 **THE COURT:** Received in evidence. You may publish  
20    it.

21                 (Trial Exhibit 56 received in evidence)

22                 **MS. HARRIS:** Thank you.

23                 (Document displayed)

24                 **MS. HARRIS:** Can you, Ms. Mallory, highlight the  
25    email address for Luke Brugnara?

1                   **THE WITNESS:** Could you ask me that again?

2 **BY MS. HARRIS:**

3 **Q** Is the email address you used "sftycoon1"?

4 **A** Yes, it is.

5 **Q** Then in Exhibit 56, you say to Mr. Brugnara:

6 "I have not offered them to anyone."

7 Was that in response to Mr. Brugnara's prior email to you?

8 **A** Yes, it was.

9 **Q** And then you say:

10 "I only offer them to one client at a time."

11 Is that correct?

12 **A** Yes, that's correct.

13 **Q** Then you quote a series of prices. And I would like to go  
14 through the prices with you.

15 **A** All right.

16 **Q** First, drawing your attention to the first paragraph, and  
17 if we can highlight the sentence that begins "The price as a  
18 group..."?

19 **A** Yes.

20 **Q** Okay. What price were you quoting Mr. Brugnara for all 16  
21 de Koonings that you intended to offer him to buy?

22 **A** The amount that was -- it's 7,360,000.

23 **Q** And was that for the de Koonings?

24 **A** Yes, it was.

25 **Q** At the time, March 23, 2014, did you personally own the

1 de Koonings that you were offering Mr. Brugnara?

2 A No, I did not.

3 Q Who had control over those paintings?

4 A Walter Maibaum.

5 Q Do you know if Mr. Maibaum personally owned them, or had  
6 them on consignment for another client?

7 A He had them on consignment.

8 Q Now, if we could move down in Exhibit 56 to the sentence  
9 that begins "The Picassos," and if we can highlight that, what  
10 price did you quote Mr. Brugnara for purchase of the Picassos?

11 A 145,000.

12 Q Okay. You also offered Mr. Brugnara in Exhibit 56 a  
13 portrait by the artist George Luks. Is that correct?

14 A Yes, that's right.

15 Q What was that portrait of?

16 A Gertrude Vanderbilt Whitney.

17 Q Did you personally own the George Luks portrait of  
18 Gertrude Vanderbilt Whitney as of March 23, 2014?

19 A Yes, I did.

20 Q What price did you quote Mr. Brugnara for the purchase of  
21 the George Luks painting?

22 A 450,000.

23 Q And in the next sentence, did you advise Mr. Brugnara that  
24 you and your husband were no longer involved with each other?

25 A Yes.

1 Q And you identified your husband by his surname, is that  
2 correct?

3 A Yes.

4 MS. HARRIS: Your Honor, may I approach the witness  
5 again?

6 THE COURT: Yes, you may.

7 BY MS. HARRIS:

8 Q Showing you what's been marked as Government Exhibit 57  
9 for identification. Do you recognize Exhibit 57?

10 A Yes, I do.

11 Q What is Exhibit 57?

12 A It's an email from sftycoon1 to me.

13 Q And Exhibit 57 is dated March 23, 2014 at 4:04 p.m. Is  
14 that the approximate date and time on which you received  
15 Exhibit 57?

16 A Yes, it is.

17 MS. HARRIS: I offer Government Exhibit 57 into  
18 evidence.

19 THE COURT: Any objection?

20 MR. BRUGNARA: No, Your Honor.

21 THE COURT: Received in evidence.

22 (Trial Exhibit 57 received in evidence)

23 THE COURT: Please publish it.

24 (Document displayed)

25

1 **BY MS. HARRIS:**

2 **Q** Mr. Brugnara in Government Exhibit 57 asks you a question.

3 He says:

4 "Rose, has Sotheby's seen the de Koonings"?

5 Do you see that question?

6 **A** Yes, I do.

7 **Q** And do you respond to Mr. Brugnara by email regarding that  
8 question?

9 **A** Yes.

10 **Q** And then Mr. Brugnara asks you a question about the George  
11 Luks. He says:

12 "I see the Luks was put up for auction by Sotheby's. It did  
13 not sell?"

14 Do you see that?

15 **A** Yes, I see that.

16 **Q** Did you also respond by email later to Mr. Brugnara  
17 concerning that inquiry?

18 **A** Yes, I did.

19 **Q** Then the last sentence, could you read for us what  
20 Mr. Brugnara asked in the last sentence of Government  
21 Exhibit 57?

22 **A** Says:

23 "What other pieces do you have in your collection?"

24 **Q** How did Mr. Brugnara sign the email that's Government  
25 Exhibit 57?

1 A "Luke."

2 MS. HARRIS: Then Ms. Mallory, if you could highlight  
3 the section right under, thank you.

4 BY MS. HARRIS:

5 Q Does Exhibit 57 indicate how the email Mr. Brugnara sent  
6 you, what the telephone was? Drawing your attention to where  
7 it says "Sent via..." can you read that?

8 A Oh, yes. That's his cell phone number, it's a --

9 Q But can you describe what it says? It says "Sent via..."

10 A Yes, "LTE smartphone."

11 Q Does it say "Samsung Galaxy"?

12 A "Samsung Galaxy," yes. Glasses.

13 Q Did you respond by email to Mr. Brugnara's questions that  
14 he asked you in Exhibit 57?

15 A Yes, I did.

16 MS. HARRIS: Your Honor, may I approach the witness?

17 BY MS. HARRIS:

18 Q Showing you what's been marked as Government Exhibit 58  
19 for identification. Do you recognize Government Exhibit 58?

20 A Yes, I do.

21 Q What is Government Exhibit 58?

22 A It's an email from me to Luke.

23 Q Government Exhibit 58 is dated March 23, 2014, at 6:04  
24 p.m. Is that the approximate date and time that you sent  
25 Exhibit 58 to the Defendant?

1 **A** Yes, it is.

2 **MS. HARRIS:** Your Honor, I offer Government  
3 Exhibit 58 into evidence.

4 **THE COURT:** Any objection?

5 **MR. BRUGNARA:** No, Your Honor.

6 **THE COURT:** Received.

7 (Trial Exhibit 58 received in evidence)

8 **THE COURT:** Go ahead and publish it.

9 (Document displayed)

10 **BY MS. HARRIS:**

11 **Q** Drawing your attention to THE first line of Government  
12 Exhibit 58, you told Mr. Brugnara (As read):

13 "The Luks was never put up for auction, that was just an  
14 estimate..."

15 Were you referring to the provenance that you had sent  
16 Mr. Brugnara in Government Exhibit 54?

17 **A** Yes. Exactly.

18 **Q** Then you also answered Mr. Brugnara about the de Kooning  
19 paintings, and you said you didn't want Sotheby's or Christie's  
20 to know about the de Koonings. Is that correct?

21 It starts, the sentence says "Second."

22 **A** No, I didn't say that.

23 **Q** What did you say?

24 **A** I said:

25 "I don't want to have Sotheby's or Christie's know about the

1 de Koonings..."

2 Q Okay. And then drawing your attention to the paragraph  
3 which is the second paragraph, it says (As read):

4 "My Luks is one of the big eight American artists also known as  
5 the Ashcan School."

6 What is the Ashcan School?

7 A Well, those are the most important American masters, while  
8 Impressionism was going on in Europe.

9 Q And is the George Luks one of the American masters?

10 A Yes.

11 Q And then in the last paragraph, I would like to draw your  
12 attention to the -- the paragraph that begins "Thank you for  
13 your concerns."

14 And you say (As read):

15 "If you wish, since I want the collection of de Koonings to  
16 stay together, I'll be happy to give you a year after we  
17 arrange any or full price...yourself or return your money."

18 What did you mean when you said "Any or full price to  
19 check yourself, or return your money"?

20 Was Mr. Brugnara to pay you?

21 A Yes. Within five days of receiving them.

22 Q Was it your anticipation that if Mr. Brugnara purchased  
23 the de Koonings, he would pay you money for those de Koonings?

24 A Yes. Absolutely.

25 Q Okay. You also say:



1 "I have a partner whom will arrange the same thing as I  
2 request."

3 Who were you referring to?

4 **A** Walter Maibaum.

5 **Q** Were you and Mr. Maibaum partners in any legal sense?

6 **A** No.

7 **Q** What did you mean when you said "partner" in Exhibit 58?

8 **A** Well, since Walter started actually sending me many, many  
9 more pieces that he wanted to go to the museum of Luke  
10 Brugnara, and so it belonged to him, so he is actually giving  
11 not only the pricing, but also the answers.

12 **Q** But, what did you mean when you said "partner"?

13 **A** Well, I meant that he owned the majority of the art. And  
14 I was concerned, you know, that --

15 **Q** Did you receive a response by email from Mr. Brugnara?

16 **A** Yes, I did.

17 **MS. HARRIS:** Your Honor, may I approach the witness?

18 **THE COURT:** Yes.

19 **BY MS. HARRIS:**

20 **Q** Showing you what's been marked as Government Exhibit 59  
21 for identification.

22 **A** Yes.

23 **Q** Do you recognize Government Exhibit 59?

24 **A** Yes, I do.

25 **Q** What is Exhibit 59?

1 A It's an email from sftycoon1 to me.

2 Q Exhibit 59 is Sunday, March 23, 2014 at 6:51 p.m. Is that  
3 the approximate date and time on which you received Exhibit 59?

4 A Yes, it is.

5 MS. HARRIS: Your Honor, I offer Government  
6 Exhibit 59 into evidence.

7 THE COURT: Any objection?

8 MR. BRUGNARA: No, Your Honor.

9 THE COURT: Received in evidence.

10 (Trial Exhibit 59 received in evidence)

11 THE COURT: You may publish it.

12 (Document displayed)

13 BY MS. HARRIS:

14 Q What state were you physically located in when you  
15 received Government Exhibit 59?

16 A New York.

17 Q Drawing your attention to the re: line --

18 MS. HARRIS: If we could blow it up, the line that  
19 starts "de Kooning," Can you highlight that?

20 BY MS. HARRIS:

21 Q The re: line says:

22 "De Kooning, Picasso, Degas & George Luks."

23 Were those the works of art that you were offering to  
24 Mr. Brugnara to buy?

25 A Yes, it is.

1 Q Let's look at the first line of the email that is  
2 Government Exhibit 59. Mr. Brugnara writes to you:  
3 "Rose, I will buy all of the paintings and put them in my  
4 museum."

5 What did you understand the word "buy" to mean?

6 A To purchase pieces.

7 Q Okay. And it says "...put them in my museum." What was  
8 your understanding of Mr. Brugnara's museum?

9 A Well, I was glad his museum was finally finished and these  
10 beautiful works of art, so valuable, would be, you know,  
11 displayed for the whole world to see.

12 Q Then Mr. Brugnara says:

13 "I will need a discounted price."

14 Did you understand "discounted price" to be referring to  
15 money?

16 A Yes, I did.

17 Q Mr. Brugnara says (As read):

18 "You will need to send the paintings to me at 224 Sea Cliff  
19 Avenue, San Francisco, California, so I can inspect them."

20 Was that the first time you had seen that address in any  
21 of your correspondence?

22 A Yes, it is.

23 Q What, if anything, did you think that was the address of?

24 A I thought it was his museum.

25 Q Okay. How did Mr. Brugnara sign Government Exhibit 59?

1 A "Luke."

2 Q And again, under the signature that says "Luke," does it  
3 show what type of device Exhibit 59 was sent on?

4 A Yes. Says, "Samsung Galaxy, 4G LTE smartphone."

5 MS. HARRIS: Your Honor, may I approach the witness?

6 THE COURT: Yes.

7 BY MS. HARRIS:

8 Q Showing you what's been marked as Government Exhibit 60  
9 for identification. Do you recognize Government Exhibit 60?

10 A Yes, I do.

11 Q What is Government Exhibit 60?

12 A It's gmail from me replying to Luke.

13 Q Exhibit 60 is dated March 24, 2014, at 7:55 a.m. Is that  
14 the approximate date and time on which you sent Exhibit 60 to  
15 Mr. Brugnara?

16 A Yes, it is.

17 MS. HARRIS: I offer Government Exhibit 60 into  
18 evidence.

19 THE COURT: Any objection?

20 MR. BRUGNARA: No, Your Honor.

21 THE COURT: Received in evidence.

22 (Trial Exhibit 60 received in evidence)

23 MS. HARRIS: May we publish it?

24 THE COURT: Yes.

25 (Document displayed)

1 BY MS. HARRIS:

2 Q Let's look at the first line:

3 "I know you will be happy with this collection. I love the  
4 de Koonings."

5 Had you seen the de Koonings when you wrote Exhibit 60?

6 A Yes, I had.

7 Q Okay. And you say:

8 "I wish I could afford them."

9 Had they been offered to you for sale?

10 A Yes. Yes, they were offered to me.

11 Q Did you buy them?

12 A No.

13 Q And then you say:

14 "But I feel great knowing they will be in your Museum."

15 As of March 24, 2014, was it your expectation that the  
16 de Koonings Mr. Brugnara was buying would be placed in a  
17 museum?

18 A Yes.

19 Q Why did you say that would make you feel great?

20 A Well, because beautiful works of art that are unique and  
21 original need to be in a museum.

22 Q Then going further down in your email, you say:

23 "Do you only want the oils or did you mean any drawings or  
24 etchings also?"

25 What were you referring to?

1 A I was clarifying the way he worded the email before this.

2 Q So if we could take a look again at Government Exhibit 59,  
3 Mr. Brugnara said to you in Exhibit 59:

4 "You will need to send the paintings to me."

5 Is that correct?

6 A Yes, he did.

7 Q So, in Government Exhibit 60, was that your effort to  
8 clarify what Mr. Brugnara meant by "paintings"?

9 A Yes.

10 Q And then you ask:

11 "What kind of discount did you wish, I will have to OK the  
12 amount with my partner."

13 Who were you referred to?

14 A I was referring to Walter Maibaum.

15 Q Why were you referring to Mr. Maibaum?

16 A Because the de Koonings and -- everything was Walter  
17 Maibaum's works of art.

18 Q Was the George Luks Walter --

19 A Yes. I owned the George Luks.

20 Q And you say:

21 "As you can see, I already discounted the George Luks."

22 What were you referring to?

23 A I was referring to the price being very close to my cost.

24 Q How much did you actually pay for the George Luks when you  
25 bought it?

1     **A**     350,000.

2     **Q**     And how much did you offer it to Mr. Brugnara for?

3     **A**     450,000.

4             **MS. HARRIS:** Your Honor, may I approach the witness?

5             **THE COURT:** Yes. One or two more exhibits at most,  
6 and then find a good resting point.

7             **MS. HARRIS:** This will probably be --

8             **THE COURT:** After this one?

9             **MS. HARRIS:** Uh-huh.

10            **THE COURT:** All right.

11            (Witness examines document)

12     **BY MS. HARRIS:**

13     **Q**     Showing you what's been marked as Government Exhibit 61  
14 for identification, do you recognize Government Exhibit 61?

15     **A**     Yes, I do.

16     **Q**     What is Government Exhibit 61?

17     **A**     It's an email that Luke sent to me.

18     **Q**     Exhibit 61 is dated Monday, March 24, 2014 at 9:37 a.m.  
19 Is that the approximate date and time on which you received  
20 Exhibit 61?

21     **A**     Yes, it is.

22     **Q**     Okay. And Exhibit 61, the email address, what is the  
23 email address that Luke Brugnara used?

24     **A**     Sanfranciscotycoon1.

25     **Q**     "sftycoon1"?

1     **A**     Yes.

2                 **MS. HARRIS:** Your Honor, I offer Government  
3 Exhibit 61 into evidence.

4                 **THE COURT:** Any objection?

5                 **MR. BRUGNARA:** No.

6                 **THE COURT:** Received.

7                 (Trial Exhibit 61 received in evidence)

8                 **THE COURT:** Please publish.

9                 (Document displayed)

10     **BY MS. HARRIS:**

11     **Q**     What state were you physically located in when you  
12 received Government Exhibit 61?

13     **A**     In New York.

14     **Q**     Mr. Brugnara writes to you on March 24, 2014 (As read):  
15 "Rose, I mean all the art pieces...including the etchings and  
16 the bronzes..."

17                 What did you interpret that to mean?

18     **A**     That he was defining all the pieces that he wished to  
19 purchase.

20     **Q**     And it says:

21 "I need you to send everything to me."

22                 Is that correct?

23     **A**     That's correct.

24     **Q**     What did you interpret "I need you to send everything to  
25 me" to mean?



1     **A**     That he was wishing to purchase all of the pieces that I  
2     had offered him.

3     **Q**     How did Mr. Brugnara sign the email?

4     **A**     "Luke."

5             **THE COURT:** All right. We are going take a 15-minute  
6     break.

7             While I'm thinking about it, you've seen reference several  
8     times to an address in Sea Cliff. You cannot go driving by  
9     there to see what it looks like. That would be your own  
10    investigation. You cannot do that.

11            You have to -- whatever you are going to learn about that  
12    address, you're going to have to learn about here right in  
13    court. And I suspect there is going to be some testimony about  
14    it, but you can't go do your own investigation. No driving by  
15    there. So, remember that.

16            And also, while I'm at it, remember, no going on the  
17    internet, no emailing about the case, no talking with anyone  
18    about the case. Including among yourselves. It will be your  
19    duty to talk about the case later on during deliberations.

20            Okay. We will take a 15-minute break.

21            **THE CLERK:** All rise.

22            (Jury excused)

23            (The following proceedings were held outside of the  
24    presence of the jury)

25            **THE COURT:** All right, be seated. Ms. -- Long is

1 your name? Which one do you want us to call you?

2 **THE WITNESS:** I prefer Littlejohn, please.

3 **THE COURT:** Ms. Littlejohn, you can have a 15-minute  
4 break too.

5 Does the lawyers or Mr. Brugnara need me to rule on  
6 anything now? I see nothing, so we'll take our break too.

7 **THE WITNESS:** Okay.

8 (Recess taken from 9:31 to 9:48 a.m.)

9 **THE COURT:** Welcome back. Please be seated.

10 Okay. Looks like all the steno pads are open and ready to  
11 go.

12 Ms. Harris, you may continue.

13 **BY MS. HARRIS:**

14 **Q** Good morning again, Ms. Long. When we broke, we were just  
15 discussing Exhibit 61. So let's bring that up again,  
16 Exhibit 61.

17 (Brief pause.)

18 **MS. HARRIS:** We're waiting for the computer to bring  
19 up Exhibit 61.

20 **THE COURT:** Is it up on the screen?

21 **THE WITNESS:** I see it.

22 **MS. HARRIS:** I don't see anything.

23 **THE CLERK:** It blew me out for some reason. I'm  
24 logging back in. Until I log in, I can't display anything.

25 **THE COURT:** What are we doing?

1           **THE CLERK:** I had to reboot. For some reason my  
2 computer was logged off. It booted it off for some reason.

3           **THE COURT:** How long is this going to take?

4           **THE CLERK:** Two seconds here.

5           (Brief pause.)

6           **THE CLERK:** I'm sorry. You want to display  
7 exhibit...

8           **MS. HARRIS:** Exhibit 61.

9           **THE CLERK:** Okay.

10          (Document displayed)

11 **BY MS. HARRIS:**

12 **Q** Before we took our break, we were discussing Exhibit 61.  
13 So if you could take a look at Exhibit 61, this is the email  
14 from Mr. Brugnara to you where he says:

15                 "Rose, I mean all the part pieces, including the  
16 etchings and bronzes. I need you to send everything  
17 to me."

18 Did you respond by email to Mr. Brugnara?

19 **A** Yes, I did.

20           **MS. HARRIS:** Your Honor, may I approach?

21           **THE COURT:** Yes.

22 **BY MS. HARRIS:**

23 **Q** Showing you what's been marked as Government's Exhibit 62  
24 for identification.

25           (Whereupon document was tendered to the witness.)

1 Q Do you recognize Government's Exhibit 62?

2 A Yes, I do.

3 Q What's Government's Exhibit 62?

4 A It's an email from me to Luke.

5 Q Exhibit 62 is dated Monday, March 24, 2014, at 11:16 am.

6 Is that the approximate date and time on which you sent  
7 Exhibit 62 to the defendant?

8 A Yes, it is.

9 MS. HARRIS: Your Honor, I offer Government's  
10 Exhibit 62 into evidence.

11 THE COURT: Any objection?

12 MR. BRUGNARA: No.

13 THE COURT: Received in evidence.

14 (Trial Exhibit 62 received in evidence.)

15 BY MS. HARRIS:

16 Q In the first line you say to Mr. Brugnara:

17 "Thank you for your confirmation that you will  
18 purchase the 16 de Kooning oil paintings on paper."  
19 What did you mean when you used the word "purchase"?

20 A That he was offering to buy them.

21 Q And when you say "buy," did you contemplate an exchange of  
22 money from Mr. Brugnara to you?

23 A Yes, I did.

24 Q Okay. And then the second line you say:

25 "I am really pleased they will be in your museum

1 so that the public will be able to enjoy these  
2 wonderful works of art."

3 Why did you think the artwork would be placed in a museum  
4 that you were selling Mr. Brugnara?

5 **A** Because that's all he's referred to so far, is his museum.

6 **Q** Okay. And then the next line says:

7 "I spoke with my partner about the price for the  
8 group. He agreed to a 10 percent discount since the  
9 paintings will go to a museum."

10 Who were you referring to when you used the word  
11 "partner"?

12 **A** Walter Maibaum.

13 **Q** At any time during any of your correspondence with  
14 Mr. Brugnara did he ever ask you who the person you were  
15 referring to as your "partner" was?

16 **A** No, he didn't.

17 **Q** Did you ever refuse to tell Mr. Brugnara who you were  
18 referring to when you used the word "partner"?

19 **A** No, I did not.

20 **Q** And in this second paragraph of Government's Exhibit 62,  
21 you say:

22 "He agreed to a 10 percent discount."

23 Who are you referring to when you use the word "he"?

24 **A** Walter Maibaum.

25 **Q** And you said, "since the paintings will go to a museum."

1 Was a discount to Mr. Brugnara in the amount of money  
2 Mr. Brugnara would have to pay being offered in reliance on the  
3 fact that the paintings were going to a museum?

4 **A** Most definitely.

5 **Q** Okay. Then you say in the next line:

6 "He asked for a down payment of 500,000 since  
7 the paintings will be crated and shipped."

8 Who were you referring to when you said "he"?

9 **A** Walter Maibaum.

10 **Q** Okay. And then you gave some bank and wire instructions  
11 below. And you say:

12 "The balance will be due when you receive the  
13 paintings and have them inspected."

14 Were you contemplating that Mr. Brugnara would pay  
15 \$500,000 as a deposit on the paintings, the de Kooning  
16 paintings, that you were selling to him?

17 **A** Yes, I do.

18 **Q** And you say:

19 "Mirò ink drawing I reduced to \$160,000."

20 Was that the cost you intended to charge Mr. Brugnara for  
21 the Mirò ink drawing?

22 **A** Yes, it is.

23 **Q** And you said you reduced it to 160,000. Why did you  
24 reduce the price?

25 **A** Because he asked for a discount, so I was, you know,

1 trying to discount them as best I could.

2 Q Okay. And then you say:

3 "Assuming this is acceptable, as we did before,  
4 I will prepare the invoice accordingly."

5 When you say "as we did before," what are you referring  
6 to?

7 A When he bought the Renoir and the Picasso and we had an  
8 understanding for earnest money.

9 Q Okay. And then you say:

10 "Please let me know and again confirm."

11 And then you give him your bank instructions for the  
12 deposit; is that correct?

13 A That's correct.

14 Q And then you say:

15 "I will write you separately on the Degas and  
16 maybe the Zadkine. I have owned them alone for many  
17 years."

18 When you say you had owned them alone, what did you mean?

19 A Well, Degas was mine, and the Zadkine I had owned.

20 Q As of March 24, 2014, did you personally own your own  
21 Degas Little Dancer statue?

22 A Yes, I did.

23 Q As far as you, know did Mr. Maibaum also own the same  
24 Degas Little Dancer statute?

25 A Yes, he did.

1           **MS. HARRIS:** Your Honor, may I approach the witness?

2 **BY MS. HARRIS:**

3 **Q** Showing you what's been marked as Government's Exhibit 63  
4 for identification.

5 (Whereupon document was tendered to the witness.)

6 **Q** Do you recognize Exhibit 63?

7 **A** Yes, I do.

8 **Q** What is Government's Exhibit 63?

9 **A** It is an email from Luke to me.

10 **Q** Exhibit 63 is dated Monday, March 24, 2014, at 11:21 a.m.

11 Is that the approximate date and time on which you  
12 received Government's Exhibit 63?

13 **A** Yes, it is.

14           **MS. HARRIS:** Your Honor, I offer Government's  
15 Exhibit 63 into evidence.

16           **THE COURT:** Any objection?

17           **MR. BRUGNARA:** No, your Honor.

18           **THE COURT:** Thank you. Received.

19 (Trial Exhibit 63 received in evidence.)

20           **THE COURT:** Please publish.

21 (Document displayed)

22           **MS. HARRIS:** If we could highlight everything that  
23 comes after the word "Rose."

24 (Document highlighted.)

25



1 **BY MS. HARRIS:**

2 **Q** Mr. Brugnara says to you:

3 "I am not going to pay any shipping costs or  
4 deposit. You will need to incur those costs as I  
5 have never paid for such costs."

6 Was that true?

7 **A** No, that's not true.

8 **Q** Did Mr. Brugnara previously pay a deposit for works of art  
9 that you sold him?

10 **A** Yes, he did.

11 **Q** Okay. Then Mr. Brugnara says:

12 "I have been a trusted client for over a  
13 decade."

14 How does Mr. Brugnara sign the email that's Government's  
15 Exhibit 63?

16 **A** "Luke."

17 **MS. HARRIS:** Your Honor, may I approach the witness?

18 **THE COURT:** Yes.

19 (Whereupon document was tendered to the witness.)

20 **BY MS. HARRIS:**

21 **Q** Showing you what's been marked as Government's Exhibit 64  
22 for identification.

23 (Whereupon document was tendered to the witness.)

24 **Q** Do you recognize Government's Exhibit 64?

25 **A** Yes, I do.

1 Q What is Government's Exhibit 64?

2 A It's an email from me, again, to Luke.

3 Q And what email address did you use for Mr. Brugnara?

4 A Sftycoon1.

5 Q Exhibit 64 is dated Monday March 24, 2014, at 12:40 p.m.

6 is that the approximate date and time on which you sent

7 Exhibit 64 to Mr. Brugnara?

8 A Yes, it is.

9 MS. HARRIS: I offer Government's Exhibit 64 into  
10 evidence.

11 THE COURT: Any objection?

12 MR. BRUGNARA: No.

13 THE COURT: Thank you. Received in evidence.

14 (Trial Exhibit 64 received in evidence.)

15 BY MS. HARRIS:

16 Q Okay. Let's highlight the first sentence in Government's  
17 Exhibit 64.

18 (Document displayed and highlighted.)

19 Q In the first sentence you tell Mr. Brugnara -- are you  
20 responding, by the way, to Mr. Brugnara's email where he says  
21 he's not going to pay any deposit or shipping costs?

22 A Yes, I am.

23 Q And you say:

24 "I understand your reasoning, but the investment  
25 my partner has involved causes a fear of sending the

1 de Koonings without any earnest payment."

2 Who are you referring to as your partner?

3 A Walter Maibaum.

4 Q At the time that you sent Government's Exhibit 54, who  
5 actually had control over the de Koonings?

6 A Walter Maibaum.

7 Q Did Mr. Brugnara ever ask you who the partner was?

8 A Never. No.

9 Q And you refer to earnest money. Again, is that a  
10 reference to the deposit that you had expected?

11 A Yes, it is.

12 Q Then you say:

13 "So I thought to appease him, since I'm not in a  
14 position to pay him because I have so much invested  
15 in my art collection."

16 Who is the "him" you're referring to?

17 A Walter Maibaum.

18 Q Okay. You said:

19 "I trust you to send my Degas, 14 Year Old  
20 Little Dancer bronze and for you only, don't please  
21 tell anyone, \$4 million to you."

22 And are -- are you quoting a price for your Degas statute?

23 A Yes, I am.

24 Q As of March 24, 2014 did you intend to sell your own Degas  
25 to Mr. Brugnara?

1 A Yes, I certainly did.

2 Q At some point during the negotiations with Mr. Brugnara  
3 did that change, where you -- it was not your Degas that got  
4 sold but somebody else's?

5 A Yes.

6 Q Okay. Okay. And then you say in the second-to-the-last  
7 line:

8 "I trust you that I could pay the earnest money  
9 to my partner."

10 What were you conveying in that sentence?

11 A I was going to send my Degas, and if he -- as he received  
12 it, pay for the Degas and then I could, in turn, give the  
13 earnest money to Walter Maibaum.

14 Q So let me see if I understand this. Your proposal would  
15 be that you would sell the Degas to Mr. Brugnara --

16 A Yes.

17 Q -- correct?

18 Upon payment for the Degas by Mr. Brugnara to you, you  
19 would then give a portion of the money to Mr. Maibaum as  
20 earnest money for the de Koonings?

21 A Yes.

22 Q Okay.

23 MS. HARRIS: Your Honor, may I approach the witness?

24 THE COURT: Yes.

25

1 **BY MS. HARRIS:**

2 **Q** Showing you what's been marked as Government's Exhibit 65  
3 for identification.

4 (Whereupon document was tendered to the witness.)

5 **Q** Do you recognize Government's Exhibit 65?

6 **A** Yes, I do.

7 **Q** What is Government's Exhibit 65?

8 **A** It's a Gmail from sftycoon1 to me.

9 **Q** And did you receive Exhibit 65 on Monday, March 24, 2014  
10 at approximately 1:53 p.m.?

11 **A** Yes, I did.

12 **Q** Okay.

13 **MS. HARRIS:** Your Honor, I offer Government's  
14 Exhibit 65 into evidence.

15 **THE COURT:** Any objection?

16 **MR. BRUGNARA:** No.

17 **THE COURT:** Thank you. Received. You may publish  
18 it.

19 (Trial Exhibit 65 received in evidence)

20 (Document displayed)

21 **BY MS. HARRIS:**

22 **Q** Exhibit 65, the email from Mr. Brugnara to you, he says:

23 "Rose, perhaps you can send at least a few of  
24 the de Koonings. Regarding the Degas, please email  
25 to me now the pictures and provenance."

1 Do you see that?

2 **A** Yes, I do.

3 **Q** Okay. How did Mr. Brugnara sign the email?

4 **A** "Luke."

5 **Q** Did you respond by email to Mr. Brugnara?

6 **A** Yes, I did.

7 **Q** By the way all the emails that we discussed, what state  
8 were you physically located in when you sent and received these  
9 emails?

10 **A** In New York.

11 **MS. HARRIS:** Your Honor, may I approach?

12 **THE COURT:** Yes.

13 **BY MS. HARRIS:**

14 **Q** Showing you what's been marked as Government's Exhibit 66  
15 for identification.

16 (Whereupon document was tendered to the witness.)

17 **Q** Do you recognize Government's Exhibit 66?

18 **A** Yes, I do.

19 **Q** What is Government's Exhibit 66?

20 **A** It's an email from me to Luke.

21 **Q** Exhibit 66 is dated Monday, March 24, 2014 at 3:16 --  
22 3:17 p.m. Is that the approximate date and time that you sent  
23 Government's Exhibit 66?

24 **A** Yes, it is.

25 **MS. HARRIS:** Your Honor, I offer Government's

1 Exhibit 66 into evidence.

2           **THE COURT:** Any objection?

3           **MR. BRUGNARA:** No, your Honor.

4           **THE COURT:** Thank you. Received.

5 (Trial Exhibit 66 received in evidence.)

6           **THE COURT:** You may publish it.

7 (Document displayed)

8           **MS. HARRIS:** If we can get to the first line, which  
9 is, "I will be glad to answer all your interests."

10 And then can you highlight the part of the sentence that  
11 starts with, "How to arrange."

12 (Document highlighted)

13 **Q** Okay. And then you say:

14 "Have to arrange traveling insurance for such  
15 large important works of art."

16 What did you mean when you referred to "such large  
17 important works of art"?

18 **A** Well, to send my Degas would be quite expensive to freight  
19 and crate and, also, to, you know, have it delivered in to  
20 San Francisco.

21 **Q** What does "such large important works of art" mean?

22 **A** Well, he was asking for a few of the de Koonings, which  
23 was not going to be possible, but I -- I could send my Degas.

24 **Q** And did you consider that to be a large important work of  
25 art?

1     **A**     Most certainly.

2                 **MS. HARRIS:** Your Honor, may I approach?

3                 **THE COURT:** Yes.

4     **BY MS. HARRIS:**

5     **Q**     Showing you what's been marked as Government's Exhibit 67  
6     for identification.

7                 (Whereupon document was tendered to the witness.)

8     **Q**     Do you recognize Government's Exhibit 67?

9     **A**     Yes, I do.

10    **Q**     What's Government's Exhibit 67?

11    **A**     It's an email from me to sftycoon1.

12    **Q**     Did you send the email that's Government's Exhibit 67 on  
13    Tuesday, March 25th, 2014 at approximately 7:42 am?

14    **A**     Yes, I did.

15    **Q**     And did you have two attachments to Government's  
16    Exhibit 67 at the time that you sent Exhibit 67?

17    **A**     Yes, I did.

18                 **MS. HARRIS:** Your Honor, I offer Government's  
19    Exhibit 67 into evidence.

20                 **THE COURT:** Any objection?

21                 **MR. BRUGNARA:** No.

22                 **THE COURT:** Received in evidence.

23                 (Trial Exhibit 67 received in evidence.)

24                 **THE COURT:** You may publish.

25                 (Document displayed)



1 BY MS. HARRIS:

2 Q In Exhibit 67 you tell Mr. Brugnara:

3 "Please find enclosed my Little 14 Year Old  
4 Dancer. Most refer to her as the Little Dancer."  
5 Is that a sculpture by Degas?

6 A Yes, it is.

7 Q And you say.

8 "Also a small authentication is closed. The  
9 original is approximately 28 pages long and is locked  
10 in my bank in Memphis."

11 Can you now turn to the next page of Government's  
12 Exhibit 67, which appears to be a photograph?

13 (Photograph displayed.)

14 Q What is this a photograph of?

15 A This is a photograph of the 14 Year Old Little Dancer.

16 Q And for the record, we're referring to Page 2 of  
17 Exhibit 67.

18 And it says -- underneath the photograph it says: "Bronze  
19 sculpture cast by Valsuani Foundry;" is that correct?

20 A That's right.

21 Q And is this the exhibit -- the attachment that was sent to  
22 Mr. Brugnara on Tuesday, March 25th, 2014?

23 A Yes, it is.

24 Q And was your Little Dancer a sculpture cast by the  
25 Valsuani Foundry?

1 A Yes, it was.

2 Q Was Mr. Maibaum's Little Dancer also a sculpture cast by  
3 the Valsuani Foundry?

4 A Yes, it was.

5 Q Now, if you could turn to Page 4 of Government's  
6 Exhibit 67, and there we have a written page.

7 (Document displayed.)

8 Q Was Page 4 of Government's Exhibit 67 also sent to  
9 Mr. Brugnara on March 25th, 2014?

10 A Yes, it was.

11 Q And I would like to draw your attention to the  
12 second-to-the-last paragraph. And specifically if we could  
13 highlight the sentence that begins:

14 "Thus, the Valsuani bronzes reflect Degas' wax  
15 as it appears circa 1903."

16 And then you have a comparison, and it says:

17 "Whereas, the Hebrard bronzes reflect Degas' wax  
18 as it appeared upon the artist's death after the  
19 modifications had been made."

20 Do you see that?

21 A Yes, I do.

22 Q Was this statement on Edgar Degas' works attached to  
23 Government's Exhibit 67, was that sent to Mr. Brugnara on  
24 March 25th --

25 A Yes, it was.

1 Q Okay. And the next paragraph, the last paragraph also  
2 says, in the first sentence -- we're about halfway through the  
3 first sentence:

4 "And those cast by Valsuani from the lifetime  
5 plaster with the authority of the Succession Degas."

6 And you say:

7 "Certificates of authenticity for the bronzes  
8 have been issued by the Succession Degas. The Comitè  
9 Degas has certified the bronzes as well."

10 Was this information transmitted to Mr. Brugnara on  
11 Tuesday, March 25th, 2014?

12 A Yes, it was.

13 MR. BRUGNARA: Your Honor, I don't have the document  
14 that she's referring to. Can I see it, please?

15 MS. HARRIS: All of the exhibits had been provided to  
16 Mr. Brugnara, including the attachments, your Honor. He has  
17 paper copies of everything at counsel table.

18 THE COURT: Mr. Stevens, don't you have that exhibit?

19 MR. BRUGNARA: I have the three pages here. I think  
20 she's on the fifth or sixth page, and there are only three  
21 here.

22 THE COURT: Well, Mr. Stevens, do you not have the --

23 MR. STEVENS: Your Honor, we have all the exhibits.  
24 I believe maybe we didn't hear what exhibit --

25 MS. HARRIS: Government's Exhibit 67.

1           **THE COURT:** We are on 67.

2           **MR. BRUGNARA:** Yeah. I thought it was a comitè Degas  
3 certificate. It was just a narrative regarding that.

4           **THE COURT:** Well, can you -- do you now have what we  
5 are referring to? Do you have the right document now?

6           I think we're set now. Go ahead.

7           **MS. HARRIS:** May I approach the witness, your Honor?

8           **THE COURT:** Yes.

9 **BY MS. HARRIS:**

10 **Q**     Handing you what's been marked as Government's Exhibit 68  
11 for identification.

12           (Whereupon document was tendered to the witness.)

13 **Q**     Do you recognize Government's Exhibit 68?

14 **A**     Yes, I do.

15 **Q**     What is Government's Exhibit 68?

16 **A**     It's an email from me to Luke.

17 **Q**     Okay. Exhibit 68 is dated March 25th, 2014 at 11:57 a.m.  
18 Is that the approximate date and time that you sent Exhibit 68  
19 to Mr. Brugnara?

20 **A**     Yes, it is.

21           **MS. HARRIS:** Your Honor, I offer Government's  
22 Exhibit 68 into evidence.

23           **THE COURT:** Any objection?

24           **MR. BRUGNARA:** No, your Honor.

25           **THE COURT:** Thank you. Received.

1 (Trial Exhibit 68 received in evidence.)

2 **BY MS. HARRIS:**

3 **Q** If we could take a look at the first sentence of  
4 Government's Exhibit 68, the email you sent to Mr. Brugnara you  
5 say:

6 "I took out another floater insurance policy and  
7 will send you the de Koonings."

8 Had you actually taken out a floater insurance policy?

9 **A** I was in the process and when I found out how much it was  
10 going to cost, then Walter and I changed the situation.

11 **Q** Did Mr. Maibaum take out insurance?

12 **A** Yes.

13 **Q** And then you say:

14 "After I had time to have the Degas Little  
15 Dancer crated, I will send it next."

16 And you explained how the de Koonings are framed and  
17 matted.

18 And then you have a sentence that says:

19 "I hope you are sincere because everything  
20 involved is extremely expensive to me right now."

21 What did you mean by that?

22 **A** Well, in order to crate and remove from your storage and  
23 then bring it to the crating room, everything has to be  
24 measured because the crates are actually made to fit the works  
25 of art.

1 And then from that point when they are all completely  
2 crated, then they have to be freighted to the airport.

3 Q Was that something that was going to be an expense borne  
4 by you?

5 A Very much, yes.

6 Q You also say:

7 "I am including a part of the Degas letter of  
8 authentication that didn't entirely email."

9 Are those the two attachments that we see on Government's  
10 Exhibit 68?

11 A Yes, it is.

12 Q If I could draw your attention to Page 1 of Government's  
13 Exhibit -- Page 2, actually, of Government's Exhibit 68. The  
14 first attempt.

15 (Photograph displayed.)

16 Q What is Page 2?

17 A The first one is the photo of the 14 Year Old Little  
18 Dancer.

19 Q And does the -- underneath the photograph does it say:  
20 "Bronze sculpture cast by Valsuani Foundry"?

21 A Yes, it does.

22 Q And was Page 2 sent to Mr. Brugnara along with your email  
23 that is Exhibit 68?

24 A Yes, it was.

25 Q Okay. Now, if we could look at Page 4 of the email -- not

1 Page 3, but Page 4 -- which has a little history of Edgar  
2 Degas.

3 (Document displayed)

4 Q Was Page 4 also sent to Mr. Brugnara?

5 A Yes, it was.

6 Q And then the last paragraph of Page 4 of Exhibit 68, if we  
7 could just blow that up?

8 (Document enlarged)

9 It says:

10 "Therefore, there are two bronze versions of the  
11 same sculpture. The Hebrard edition cast from the  
12 posthumous plaster and those cast by Valsuani from  
13 the lifetime plaster with the authority Succession  
14 Degas."

15 Was that information transmitted to Mr. Brugnara exactly  
16 as we see it in court today?

17 A Yes, exactly.

18 MS. HARRIS: Your Honor, may I approach the witness?

19 THE COURT: Yes.

20 BY MS. HARRIS:

21 Q Showing you what's been marked as Government's Exhibit 69  
22 for identification.

23 (Whereupon document was tendered to the witness.)

24 Q Do you recognize Government's Exhibit 69?

25 A Yes, I do.

1 Q What is Government's Exhibit 69?

2 A It's an email that Luke sent to me.

3 Q Exhibit 69 is dated Tuesday, March 25th, 2014 at 1:16 p.m.

4 Is that the approximate date and time that you received  
5 Exhibit 69?

6 A Yes, it is.

7 MS. HARRIS: Your Honor, I offer Government's  
8 Exhibit 69 into evidence.

9 THE COURT: Any objection?

10 MR. BRUGNARA: No, your Honor.

11 THE COURT: Thank you. Received. You may publish.

12 (Document displayed)

13 BY MS. HARRIS:

14 Q In Government's Exhibit 69, if we could highlight the  
15 entire text.

16 (Document displayed)

17 Q Mr. Brugnara says:

18 "Thank you. I look forward to putting them in  
19 my museum."

20 Is that correct?

21 A That's correct.

22 Q What did you understand "I look forward to putting them in  
23 my museum" to mean?

24 A Exactly what it says, that they would be, you know,  
25 displayed in his museum.



1 Q And when you say "they would be displayed" --

2 A All the art that he would be receiving, or he was  
3 purchasing would go into his museum.

4 Q Was that important to you?

5 A It was extremely important.

6 Q Why?

7 A Because these types of work only belong in a museum.

8 Q Where were you physically located, what state, when you  
9 received Exhibit 69?

10 A I was in New York.

11 MS. HARRIS: Your Honor, may I approach the witness?

12 THE COURT: Yes.

13 BY MS. HARRIS:

14 Q Showing you what's been marked as Government's Exhibit 70  
15 for identification.

16 (Whereupon document was tendered to the witness.)

17 Q Do you recognize Government's Exhibit 70?

18 A Yes, I do.

19 Q What is Government's Exhibit 70?

20 A It's an email Luke sent to me.

21 Q And Exhibit 70 is dated Wednesday, March 26, 2014 at  
22 10:41 p.m. Is that the approximate date and time that you  
23 received Government's Exhibit 70?

24 A Yes, it is.

25 MS. HARRIS: Your Honor, I offer Government's

1 Exhibit 70 into evidence.

2 **THE COURT:** Any objection?

3 **MR. BRUGNARA:** No, your Honor.

4 **THE COURT:** Thank you. Received.

5 (Trial Exhibit 69 received in evidence.)

6 **THE COURT:** You may publish it.

7 (Document displayed)

8 **BY MS. HARRIS:**

9 **Q** Mr. Brugnara says to you:

10 "Dear Rose: Please let me know the estimated  
11 date of arrival of the paintings and bronze."

12 What did you understand the "paintings and bronze" to  
13 refer to?

14 **A** The de Koonings and the Picassos and the --

15 **Q** What was the bronze?

16 **A** Well, of course, the Degas bronze especially.

17 **Q** And then how did Mr. Brugnara sign the email that is  
18 Government's Exhibit 70?

19 **A** He says, "Very truly, Luke."

20 **MS. HARRIS:** Okay. Your Honor, may I approach the  
21 witness?

22 **THE COURT:** Yes.

23 **BY MS. HARRIS:**

24 **Q** I'm handing you what's been marked as Government's  
25 Exhibit 71 for identification.

1 (Whereupon document was tendered to the witness.)

2 **Q** Do you recognize Government's Exhibit 71?

3 **A** Yes, I do.

4 **Q** What is Exhibit 71?

5 **A** It's an email from me to Luke.

6 **Q** Exhibit 71 is dated Thursday, March 27, 2014 at 8:57 am.

7 Is that the approximate date and time you sent Exhibit 71 to  
8 Mr. Brugnara?

9 **A** Yes, it is.

10 **MS. HARRIS:** Your Honor, I offer Government's  
11 Exhibit 71 into evidence.

12 **THE COURT:** Any objection?

13 **MR. BRUGNARA:** No.

14 **THE COURT:** Received.

15 (Trial Exhibit 71 received in evidence.)

16 **THE COURT:** You may publish.

17 (Document displayed)

18 **BY MS. HARRIS:**

19 **Q** The first line you say:

20 "My packers at Cirkers are busy crating and  
21 collecting all the pieces of art I mentioned to you."

22 And then you say -- you go on to say:

23 "Then I have a dedicated art truck just handling  
24 your pieces."

25 Then I would like to highlight the sentence that comes

1 after the semicolon.

2 "Anything" --

3 You say:

4 "Anything of this value must not only have  
5 strictly art handlers, but also the best art  
6 protectors in transportation."

7 What did you mean when you said "anything of this value"?

8 A Well, the extreme amount of value and extremely important  
9 works of art.

10 Q Okay. And then you say:

11 "You will probably receive them by April 7."

12 Was it your anticipation that you -- the art would be sent  
13 somewhere?

14 A Yes.

15 Q In San Francisco?

16 A Yes.

17 Q What -- where did you think physically the art was going  
18 to be sent to?

19 A To his museum.

20 Q Okay. And then you say:

21 "I thought I might fly down and help you or even  
22 show you how the best arrangement for the de Koonings  
23 and show you the movement and flow of correct  
24 balance."

25 What were you offering to do?

1   **A**     I was actually wanting to make sure that they were  
2   prepared in the proper direction and, as I say, the flow and  
3   the movement, because pieces -- when you have 16 in one  
4   collection, you make sure that each one is hung by the --  
5   correctly by the next one.

6   **Q**     Were you offering to arrange them at the defendant's  
7   museum?

8   **A**     Yes.

9   **Q**     And then the last line of your email you ask:

10               "Which hotel is closest to your museum site?"

11               Why did you ask that?

12   **A**     So that I would be near when it was time to meet the  
13   freight that was arriving at his museum.

14   **Q**     Did you say "freight"?

15   **A**     Yes.

16   **Q**     Okay. So it was -- was it your expectation that you would  
17   be staying in a hotel near the museum for delivery of the art?

18   **A**     Yes.

19   **Q**     Did Mr. Brugnara ever respond to your inquiry concerning  
20   which hotel is closest to his museum?

21   **A**     No, he did not.

22               **MS. HARRIS:** Your Honor, may I approach the witness?

23               **THE COURT:** Yes.

24   **BY MS. HARRIS:**

25   **Q**     Showing you what's been marked as Government's Exhibit 72

1 for identification.

2 (Whereupon document was tendered to the witness.)

3 **Q** Do you recognize Government's Exhibit 72?

4 **A** Yes, I do.

5 **Q** What is Government's Exhibit 72?

6 **A** It's an email from me to San Francisco -- sftycoon1.

7 **Q** And Exhibit 72 is dated March 28, 2014 at 7:11 a.m. Is  
8 that the approximate date and time you sent Exhibit 72 to  
9 Mr. Brugnara?

10 **A** Yes, it is.

11 **MS. HARRIS:** Your Honor, I offer Government's  
12 Exhibit 72 into evidence.

13 **THE COURT:** Any objection?

14 **MR. BRUGNARA:** No, your Honor.

15 **THE COURT:** Thank you. Received.

16 (Trial Exhibit 72 received in evidence.)

17 **THE COURT:** You may publish.

18 (Document displayed)

19 **BY MS. HARRIS:**

20 **Q** Okay. And the first sentence of Government's Exhibit 72  
21 you tell Mr. Brugnara:

22 "The crating will be finished and on the  
23 dedicated art handler truck on the 2nd."

24 Were you referring to April 2?

25 **A** Yes, I was.

1 Q And you said:

2 "In order for a safe journey to you by the 7th."

3 Was it your expectation that the art would be delivered to  
4 the museum by April 7th?

5 A Yes.

6 Q And then you ask Mr. Brugnara a question in the next  
7 paragraph.

8 If we could highlight that?

9 (Document highlighted.)

10 "Please give me the exact museum address and its  
11 hours of operation, especially any specifics on time  
12 limits and the driver's entrance."

13 Why were you asking for the exact museum address and its  
14 hours of operation?

15 A For many reasons. First of all, I needed to tell the  
16 truckers they would be picking them up via ShipArt at the  
17 airport.

18 And I have had many things delivered to museums, and there  
19 is a process, and the -- the men that are supposed to be  
20 watching the freight come in are supposed to be employees of  
21 the museum.

22 Q Have you had other experience with works of art being  
23 delivered to a museum?

24 A Yes, I have.

25 Q Were these questions consistent with your experience as to

1 how art should be delivered to a museum?

2 **A** Yes, exactly.

3 **Q** You referred to something called ShipArt in a previous  
4 answer. What is ShipArt?

5 **A** ShipArt is the connection that Cirkers made to send the  
6 truckers to what I thought was the museum.

7 **Q** Was ShipArt involved in this particular transaction?

8 **A** No -- yes, they were. That's who sent out the truck. It  
9 was called -- well, you'll tell me later.

10 **Q** Was ShipArt in any way being used as an escrow agent for  
11 the art in this transaction?

12 **A** Yes.

13 **Q** Are you sure?

14 **A** Well, they were --

15 **Q** They were --

16 **A** They were contacted to.

17 **Q** Transport --

18 **A** Yes.

19 **Q** Okay. But they were not going to have any --

20 **MR. BRUGNARA:** Objection, your Honor. She's --

21 **BY MS. HARRIS:**

22 **Q** But they --

23 **MR. BRUGNARA:** Your Honor, she's interrupting the  
24 answer she doesn't want to hear, and then --

25 **MS. HARRIS:** Your Honor, this is a speaking



1 objection.

2           **MR. BRUGNARA:** -- asking the answer she wants to  
3 hear.

4           She asked her: Was ShipArt an escrow holder in this  
5 transaction?

6           She said: No.

7           No, no. She wasn't. She's telling her -- correcting her  
8 answer.

9           **THE COURT:** All right.

10           **MR. BRUGNARA:** That's just --

11           **THE COURT:** Well, let me -- tell us what the role was  
12 of ShipArt in this transaction. Start all over again and tell  
13 us.

14           **THE WITNESS:** All right.

15 **A**     When one company that is also a shipper is contacting  
16 the -- where it is being delivered, they contact that  
17 shipper --

18           **THE COURT:** Tell the jury, not me.

19 **A**     -- they tell the shipper which -- you know, which freight  
20 they are going to use and then that's the freight that is sent  
21 out to the airport, the freight truck.

22           **THE COURT:** So ShipArt in this case, what --

23           **THE WITNESS:** They contacted --

24           **THE COURT:** -- what were they supposed to do in this  
25 case?

1           **THE WITNESS:** They just are the ones that chose the  
2 freight company to pick up the art.

3           **THE COURT:** All right. Next question.

4           **MS. HARRIS:** Your Honor, may I approach the witness?

5           **THE COURT:** Yes, you may.

6 **BY MS. HARRIS:**

7 **Q** Showing you what's been marked as Government's Exhibit 73  
8 for identification.

9 (Whereupon document was tendered to the witness.)

10 **Q** Do you recognize Government's Exhibit 73?

11 **A** Yes, I do.

12 **Q** What is Government's Exhibit 73?

13 **A** It's an email from Luke to me.

14 **Q** Exhibit 73 is dated March 28, 2014 at 8:40 a.m. Is that  
15 the approximate date and time on which you received Exhibit 73?

16 **A** Yes, it is.

17           **MS. HARRIS:** Your Honor, I offer Government's  
18 Exhibit 73 into evidence.

19           **THE COURT:** Any objection?

20           **MR. BRUGNARA:** No, your Honor.

21           **THE COURT:** Received in evidence.

22 (Trial Exhibit 73 received in evidence.)

23 **BY MS. HARRIS:**

24 **Q** Exhibit 73, Mr. Brugnara says to you:

25 "Dear Rose: As I stated to you previously, send

1 the pieces to Brugnara Properties."

2 Had you ever heard of Brugnara Properties before Friday,  
3 March 28, 2014?

4 **A** No, I had not.

5 **Q** In any of the correspondence you had with Mr. Brugnara  
6 concerning his purchase of the pieces of art, had he ever  
7 referred to Brugnara Properties as the buyer?

8 **A** No, he has not.

9 **Q** And there is an address, 224 Sea Cliff Avenue,  
10 San Francisco, California. Did you understand that -- had you  
11 seen that address before?

12 **A** No. That's the first time.

13 **Q** Had Mr. Brugnara ever referred to the Sea Cliff address to  
14 you?

15 **A** No, he had not.

16 **Q** If you could take a look at one of the exhibits that's  
17 already in evidence, if you could take a look at Government's  
18 Exhibit 59.

19 (Brief pause.)

20 **Q** I would ask you if reviewing Exhibit 59 refreshes your  
21 memory? Can you find Government's Exhibit 59?

22 **A** It has to be down in here. This is the one I'm using.

23 **THE COURT:** Would you help her find Government's  
24 Exhibit 59, please?

25 (Brief pause.)

1           **MS. HARRIS:** Actually, why don't we just publish  
2 Exhibit 59?

3           **THE COURT:** All right. We'll use the screen.  
4 Can you see the screen?  
5 (Document displayed)

6           **THE WITNESS:** Yes, I can.

7           **THE COURT:** All right. That looks like -- I can't  
8 tell the exhibit number from this, but is that 59?

9           **MS. HARRIS:** It's Exhibit 59, your Honor.  
10 Can you blow up the address in Exhibit 59?  
11 (Document enlarged.)

12 **BY MS. HARRIS:**

13 **Q** Does reviewing Exhibit 59 refresh your memory about --

14 **A** Yes, it does.

15 **Q** Okay. Have you heard of 224 Sea Cliff Avenue before?

16 **A** Yes.

17 **Q** Okay. What was it your understanding 224 Sea Cliff Avenue  
18 was the address for?

19 **A** His museum.

20 **Q** Okay. Mr. Brugnara, in Government's Exhibit 73 now --  
21 we're talking about Exhibit 73, that's also on the screen.

22 (Document displayed)

23 **Q** It says:

24 "The shippers can coordinate delivery by calling  
25 me."

1           And then he gives a phone number. What was the phone  
2 number Mr. Brugnara gave you?

3     **A**       (415)871-8011.

4     **Q**       Okay. Is that the phone number that you had for  
5 Mr. Brugnara at this time?

6     **A**       Yes, it -- yes, it is.

7     **Q**       And it says:

8                "And there will be someone from Brugnara  
9 Properties present to assist them."

10           And he says:

11                "This is a fairly wide straight street so there  
12 should be no restriction on truck deliveries."

13           Do you see that?

14     **A**       Yes, I do.

15     **Q**       How does Mr. Brugnara sign Exhibit 73?

16     **A**       "Very truly, Luke Brugnara, Brugnara Properties."

17     **Q**       Had Mr. Brugnara ever signed any of the correspondence  
18 with you before Exhibit 73 as "Luke Brugnara, Brugnara  
19 Properties"?

20     **A**       No.

21                **MS. HARRIS:** Your Honor, may I approach the witness?

22                **THE COURT:** Yes, you may.

23     **BY MS. HARRIS:**

24     **Q**       Showing you what's been marked as Government's Exhibit 74  
25 for identification.

1           **THE COURT:** While you're up there, please take back  
2 all those other folders so that she can have some room. And  
3 then if we need them, we can come back to them.

4           **MS. HARRIS:** You want me to take these?

5           **THE COURT:** Yes. It's getting too crowded on the  
6 witness bench.

7           **THE WITNESS:** They are not in order now. Sorry.

8           **THE COURT:** Well, that doesn't matter. We'll get  
9 them in order. Just focus on the document in front of you.

10          **THE WITNESS:** All right.

11          **THE COURT:** What's your next question?

12 **BY MS. HARRIS:**

13 **Q** Do you recognize Government's Exhibit 74?

14 **A** Yes, I do.

15 **Q** What is Exhibit 74?

16 **A** It's an email from me to sftycoon1.

17 **Q** Okay. And Exhibit 74 is dated Tuesday, April 1, 2014 at  
18 9:09 a.m. Is that the approximate date and time that you sent  
19 Exhibit 74 to Mr. Brugnara?

20 **A** Yes, it is.

21           **MS. HARRIS:** Okay. Your Honor, I offer Government's  
22 Exhibit 74 into evidence.

23           **THE COURT:** Any objection?

24           **MR. BRUGNARA:** No, your Honor.

25           **THE COURT:** Received in evidence.

1 (Trial Exhibit 74 received in evidence.)

2 **THE COURT:** Please publish.

3 (Document displayed)

4 **BY MS. HARRIS:**

5 **Q** Let's look at the second sentence. You say:

6 "I needed help to facilitate the shipment  
7 arrangements with you, since the works of art will be  
8 leaving today."

9 Did you mean that the art that you were shipping to the  
10 museum in San Francisco would be leaving New York on April 1?

11 **A** Yes.

12 **Q** Okay. And you said:

13 "All the de Koonings, Degas, Picassos, Mirò and  
14 Luks will arrive on the 7th of April."

15 What did you mean by that?

16 **A** That the trucker had all been arranged and the freight  
17 would arrive at his museum.

18 **Q** And then you also say:

19 "It will be very important for you or your  
20 assistant to notify your insurance carrier that the  
21 art must be covered under your policy the moment it  
22 arrives at your location. This was a stipulation on  
23 my insurance and has always been once it is out of my  
24 hands."

25 What were you conveying when you wrote that?

1   **A**     I was letting him know that once the insurance -- when all  
2   the artworks are out of my hands, as I said, I no longer have  
3   them, they are going into his museum, they -- his insurance  
4   needs to cover them.

5   **Q**     Let's look at the next sentence in the last paragraph, the  
6   first sentence.

7           If we could blow up the first sentence? That's perfect.  
8   Okay.

9           (Document enlarged.)

10  **BY MS. HARRIS:**

11  **Q**     You say to Mr. Brugnara:

12                 "I will be in San Francisco ten minutes away  
13           from your location."

14           What were you conveying to Mr. Brugnara there?

15  **A**     That I would be there to assist with the checking the  
16   freight and seeing that nothing could happen in the traveling.

17  **Q**     When I said "I will be there," what city were you  
18   referring to?

19  **A**     San Francisco.

20  **Q**     And then you said -- let's look at the last sentence  
21   before you sign Exhibit 74. It begins, "While I." The last  
22   sentence.

23                 "While I am in San Francisco, you may always  
24           reach me at..."

25           And then what is the phone number you gave for yourself?



1 A My cell, which is (901)270-6632.

2 Q Is that the telephone number that you had Mr. Brugnara use  
3 for you at all times during this transaction?

4 A No.

5 Q Okay. Did you have another number?

6 A Yes.

7 Q What was that?

8 A The -- my home number in New York, (212)628-2189.

9 Q Did you give him your cell number to use while you were in  
10 San Francisco?

11 A Yes, I did.

12 Q Okay.

13 MS. HARRIS: Your Honor, may I approach the witness?

14 THE COURT: Yes.

15 BY MS. HARRIS:

16 Q I'm handing you what's been marked as Government's  
17 Exhibit 75 for identification.

18 (Whereupon document was tendered to the witness.)

19 Q Do you recognize Government's Exhibit 75?

20 A Yes, I do.

21 Q What is Government's Exhibit 75?

22 A It's an email from --

23 MR. BRUGNARA: Your Honor?

24 THE COURT: Yes.

25 MR. BRUGNARA: Can I ask your Honor to take a look at

1 what's in that folder, because counsel advises generally the  
2 exhibits are produced in paper form, just for notes or any  
3 other references.

4 (Whereupon, document was tendered to the Court.)

5 **THE COURT:** There is nothing, but the exhibit.

6 **MR. BRUGNARA:** That's fine, your Honor. Just wanted  
7 to be sure.

8 **BY MS. HARRIS:**

9 **Q** Ms. Long, can you take a look at what's been marked as  
10 Government's Exhibit 75. And I'm going to ask you if you  
11 recognize Government's Exhibit 75.

12 **A** Yes, I do.

13 **Q** What is Exhibit 75?

14 **A** It's an email from --

15 **THE COURT:** You need to speak into the microphone.

16 **THE WITNESS:** Oh, sorry.

17 **A** It's an email from sftycoon1 to me.

18 **BY MS. HARRIS:**

19 **Q** Okay. And did you receive the email that's Government's  
20 Exhibit 75 on April 1, 2014 at approximately 11:08 a.m.?

21 **A** Yes, I did.

22 **MS. HARRIS:** Your Honor, I offer Government's  
23 Exhibit 75 into evidence.

24 **THE COURT:** Any objection?

25 **MR. BRUGNARA:** No, your Honor.

1           **THE COURT:** Received in evidence.

2           (Trial Exhibit 75 received in evidence)

3           **THE COURT:** You may publish it.

4           (Document displayed)

5 **BY MS. HARRIS:**

6 **Q** Ms. Long, other than the exhibit tab, is Exhibit 75  
7 identical in all respects to when you received it?

8 **A** Yes, it is.

9 **Q** Let's look at what Mr. Brugnara wrote to you on April 1,  
10 2014:

11           "Dear Rose: You can arrange unloading/moving  
12 with ShipArt International."

13 Do you see that?

14 **A** Yes, I do.

15 **Q** Does it say anything about ShipArt International as an  
16 escrow agent?

17 **A** No, it doesn't.

18 **Q** And then Mr. Brugnara says:

19           "I do not have the staff to unload these  
20 pieces."

21 Do you see that?

22 **A** Yes, I do.

23 **Q** How did Mr. Brugnara sign Government's Exhibit 75?

24 **A** "Luke."

25 **Q** Okay. Underneath the signature it says "Sent via," and

1 there is something referred to. What does it say?

2 **A** "Samsung Galaxy AT&T 4G LTE Smartphone."

3 **Q** Thank you.

4 **MS. HARRIS:** Your Honor, may I approach the witness?

5 **THE COURT:** Yes.

6 **BY MS. HARRIS:**

7 **Q** I'm handing you what's been marked as Government's  
8 Exhibit 76 for identification.

9 (Whereupon document was tendered to the witness.)

10 **Q** Do you recognize Government's Exhibits 76?

11 **A** Yes, I do.

12 **Q** What is Government's Exhibit 76?

13 **A** It's an email from me to sftycoon1.

14 **Q** Exhibit 76 is dated April 2, 2014 at 1:30 p.m. Is that  
15 the approximate date and time that you sent Exhibit 76 to  
16 Mr. Brugnara?

17 **A** Yes, it is.

18 **MS. HARRIS:** Your Honor, I offer Government's  
19 Exhibit 76 into evidence.

20 **THE COURT:** Any objection?

21 **MR. BRUGNARA:** No, your Honor.

22 **THE COURT:** All right. It's received.

23 (Trial Exhibit 76 received in evidence.)

24 **THE COURT:** And you may publish it.

25 (Document displayed)

1 BY MS. HARRIS:

2 Q Let look at the first sentence of Government's Exhibit 76.

3 You write to Mr. Brugnara:

4 "Dear Luke: My truckers will remove the crates  
5 in the protected area that you wish at 224 Sea Cliff  
6 Avenue."

7 What did you think -- as of April 2, 2014, what did you  
8 think 224 Sea Cliff Avenue was?

9 A I thought it was a museum.

10 Q Okay. And then let's take a look at the last paragraph of  
11 Government's Exhibit 76. You say:

12 "This arrangement will have all the art works in  
13 your possession."

14 What were you intending to convey to Mr. Brugnara when you  
15 wrote that?

16 A To remind him that his -- he needed to have his insurance  
17 prepared to take over.

18 Q Did you actually travel to San Francisco to be present  
19 when the art was delivered to the museum?

20 A Yes, I did.

21 Q Did you arrive shortly before April 7th, 2014?

22 A Yes, I did.

23 Q Where did you stay when you arrived in San Francisco?

24 A Oh, it was one of the hotels down by the Fisherman's  
25 Wharf. I'm not certain which one, since I have been back so

1 many times.

2 Q Did you bring your cell phone with you?

3 A Yes, I did.

4 Q At any point prior to when you arrived physically in  
5 San Francisco, did Mr. Brugnara give you the name of any hotel  
6 you should stay at?

7 A No, he didn't.

8 Q Drawing your attention now to the morning of April 7th,  
9 2014. What did you do after you woke up?

10 A As always, I ordered a pot of coffee.

11 Q Did you eat any breakfast?

12 A No.

13 Q Other than coffee, did you have anything else to drink  
14 that morning?

15 A No.

16 Q After you had coffee, did you leave the hotel?

17 A Yes.

18 Q Where did you go?

19 A I went to meet the -- be waiting for the truckers, the  
20 freighters.

21 Q Okay. What address did you go to?

22 A I got directions to the 226 -- well, I actually asked  
23 Walter where this was and got directions.

24 Q Directions to what address?

25 A To the 220- -- look at it.

1 Q To the Sea Cliff address?

2 A Yes, 224.

3 Q How did you get there on the morning of April 7th?

4 A I had rented a car from the airport, so I drove.

5 Q Approximately, what time did you arrive at that address on  
6 Sea Cliff Avenue?

7 A I can't say certainly, because I don't remember. But I  
8 know it was in the morning and it was approximately 9:00  
9 something, I think, because the freight people were to call me  
10 as soon as they were on their way to that house, which they  
11 did.

12 Q Did you receive a call from the freight people?

13 A Yes, I did.

14 Q Okay. And after you received that call, what did you do?

15 A Then I went straight to that address.

16 Q And by "that address," what are you referring to?

17 A 224 Sea Cliff Avenue.

18 Q Can you describe for us what you saw when you arrived at  
19 224 Sea Cliff Avenue?

20 A Yes.

21 Q Go ahead.

22 A I saw a normal looking home with a garage in the front.

23 Q Was it a museum?

24 A No, not at all.

25 Q Did you bring anything along with you when you went to

1 what you thought was going to be the museum?

2 A Yes, I did.

3 Q What did you bring?

4 A I brought my tools. And as you see, I carry large purses  
5 so I can carry my tools. I carry the Hermitage Degas book,  
6 where the exhibition had been in Russia, and the invoices.

7 Q Okay. When you got to Sea Cliff Avenue, did you see the  
8 delivery truck?

9 A In a few minutes. 15 minutes or so, yes.

10 Q When you first arrived there, did you see Mr. Brugnara?

11 A No.

12 Q At some point that morning did you actually see  
13 Mr. Brugnara?

14 A Yes.

15 Q Can you describe how that occurred?

16 A After the truck was -- had arrived, he opened the garage  
17 door and came, I guess, through his home through the garage.

18 Q Was the first time that you saw Mr. Brugnara on April 7th,  
19 2014 when he emerged through the garage?

20 A Yes.

21 Q Was this the first time you had ever met Mr. Brugnara in  
22 person?

23 A Yes, it is.

24 Q Did you introduce yourself to him?

25 A Yes, I did.



1 Q Did Mr. Brugnara introduce himself to you?

2 A Yes, he did.

3 Q Was there any other conversation at that time?

4 A No. It was mainly paying attention to the art works.

5 Q Okay. Do you see the person that you met on April 7th,  
6 2014 as Luke Brugnara sitting in this courtroom?

7 A Yes, I do.

8 Q Can you point to him and identify him by what he's  
9 wearing?

10 A Yes. He's the first gentleman sitting at the table right  
11 over there with the white shirt and navy blue jacket and gray  
12 pants.

13 MS. HARRIS: Your Honor, may the record reflect that  
14 Ms. Long has identified the defendant.

15 THE COURT: Yes, that's what happened.

16 BY MS. HARRIS:

17 Q Were the crates of art that you had sold to Mr. Brugnara  
18 unloaded at 224 Sea Cliff Avenue?

19 A Yes, they were.

20 Q How many crates were unloaded?

21 A Five.

22 Q Did you personally see all five crates?

23 A Yes, I did.

24 Q Who unloaded the crates from the truck?

25 A The two gentlemen that were sent to remove them.

1 Q Where were the crates put when they were taken off the  
2 truck?

3 A First they were put down on the ground because I had to  
4 check each one.

5 Q What were you checking for?

6 A Checking to see if there was any damage, you know, or it  
7 looked like it had been -- you know, somebody had tampered with  
8 it or anything. You always have to check that.

9 Q When you say "check," were you looking inside the crates?

10 A No, no. No. I just made sure they had not been opened  
11 and they had not been touched so that we could proceed.

12 Q Did you confirm that they had not been touched?

13 A Had not been touched, no.

14 Q Did you confirm that there were five crates?

15 A Yes, I did.

16 Q After you confirmed that there were five crates and they  
17 had not been touched, what's the next thing that happened?

18 A Oh, he directed the gentlemen to put them in his garage.

19 Q Who is "he"?

20 A Luke.

21 Q Were the crates put in the garage?

22 A Yes.

23 Q Okay. At any point on April 7, 2014 while you were  
24 physically present were the crates opened?

25 A No.

1 Q Why didn't you open them with Mr. Brugnara?

2 A Because he said he was a very busy man and he had someone  
3 coming any minute to show some property he was buying, and that  
4 he didn't have time.

5 MS. HARRIS: Your Honor, may I approach the witness?

6 THE COURT: Yes.

7 BY MS. HARRIS:

8 Q Showing you what's been marked as Government's Exhibit 77  
9 for identification.

10 (Whereupon document was tendered to the witness.)

11 Q Do you recognize Government's Exhibit 77?

12 A Yes, I do.

13 Q What is Exhibit 77?

14 A It's -- it's the Tigers billing label.

15 Q Is that your signature in the lower right-hand corner of  
16 Exhibit 77?

17 A Yes, it is.

18 Q And Exhibit 77 is dated April 7th, 2014. Is that the date  
19 on which you signed Exhibit 77?

20 A Yes, it is.

21 MS. HARRIS: Your Honor, I offer Exhibit 77 into  
22 evidence.

23 THE COURT: Any objection?

24 MR. BRUGNARA: No, your Honor.

25 THE COURT: Received in evidence. Thank you.

1 (Trial Exhibit 77 received in evidence.)

2 **THE COURT:** You may publish.

3 (Document displayed)

4 **BY MS. HARRIS:**

5 **Q** I want to ask you some questions about Exhibit 77. Other  
6 than the signature and the date, is any of the handwriting on  
7 Exhibit 77 your handwriting?

8 **A** You said other than the signature?

9 **Q** Yes.

10 **A** No.

11 **Q** Drawing your attention to the right of your signature,  
12 there is a little box that says "Pieces." Do you see that?

13 If we could highlight that?

14 (Document highlighted.)

15 How many pieces does the waybill refer to?

16 **A** Five.

17 **Q** Were there five pieces delivered to 224 Sea Cliff Avenue?

18 **A** Yes. Definitely.

19 **Q** And was the indication that there were five pieces  
20 delivered to Sea Cliff Avenue on Exhibit 77 when you signed it?

21 **A** Yes, there is.

22 **Q** When I asked you if you had brought anything with you to  
23 Sea Cliff Avenue, you referred to a book. What book was that?

24 **A** It was the exhibition from the Hermitage of the -- the  
25 exhibition for the Degas, the entire. And the main -- when you

1 open it, then you -- sorry.

2 **Q** Don't tell me anything about it yet.

3 **A** Sorry.

4 **MS. HARRIS:** Your Honor, may I approach the witness?

5 **THE COURT:** Yes.

6 **BY MS. HARRIS:**

7 **Q** Handing you what's been marked as Government's Exhibit 5  
8 for identification.

9 (Whereupon a book was tendered to the witness.)

10 **MR. BRUGNARA:** Your Honor, can I have an sidebar  
11 please for one second?

12 **THE COURT:** All right. Let's have a sidebar.

13 (Proceedings held at sidebar.)

14 **THE COURT:** All right. What's the issue?

15 **MR. BRUGNARA:** I have an issue that just happened  
16 right now. I think it's clear, but Ms. Long says -- there has  
17 been some instruction to the witness as to how to respond to  
18 the book.

19 She said -- and you see how she has responded to every  
20 message -- excuse me, every question, to the specific question.

21 Have you seen this Hermitage book? She said yes. And  
22 then if you open a few pages, you know, to get to the Hermitage  
23 stamp that we discussed ad nauseam that day. Remember, you  
24 said -- remember, here it is on the third page.

25 The fact is that she was instructed clearly to describe

1 where the name Hermitage is on there written in English by the  
2 way she responded to that question, which means Ms. Harris  
3 and/or someone in that office tampered with this, tampered with  
4 this --

5 **THE COURT:** Well, you can on cross examination -- if  
6 you think you can prove that she has been brainwashed, you can  
7 bring that on cross-examination. But the record doesn't show  
8 that now.

9 **MR. BRUGNARA:** I think that's going to be such a  
10 minor issue, I just want to make a record of it; that I think  
11 based upon her testimony so far, it's a struggle for her and  
12 that she gets to: Have you seen the book? So, yeah. But if  
13 you go to the fifth page, there's the stamp. That's what's  
14 coming up now.

15 **THE COURT:** Thank you. Objection is overruled.  
16 Overruled.

17 **MR. BRUGNARA:** I understand.

18 (Proceedings held in open court.)

19 **BY MS. HARRIS:**

20 **Q** Ms. Long, before we took the sidebar, I had brought  
21 Exhibit 5 to you.

22 Do you recognize Exhibit 5?

23 **A** Yes, I do.

24 **Q** What is Exhibit 5?

25 **A** It's the Degas book from the Hermitage that I gave to Luke

1 Brugnara.

2 **Q** When did you give Exhibit 5 to Mr. Brugnara?

3 **A** When we were sitting inside of his home because I was --  
4 brought it for the purpose of -- because he was purchasing the  
5 Degas, which is the main work of art by Degas.

6 **MS. HARRIS:** Your Honor, I offer Government's  
7 Exhibit 5 into evidence.

8 **THE COURT:** Any objection?

9 (Pause)

10 **MR. BRUGNARA:** We object, your Honor.

11 **THE COURT:** And the basis of the objection? Just the  
12 legal objection?

13 (Discussion held off the record between Mr. Brugnara  
14 and his advisory counsel.)

15 **MR. BRUGNARA:** Your Honor, here is the objection.  
16 Based on content, it shouldn't be coming into evidence.

17 **THE COURT:** All right. The book will be received.  
18 Exhibit 5 is received.

19 But the contents of the book are not offered for the truth  
20 of any statements and you may not consider them for the truth  
21 of any statements, but you may consider the book is offered for  
22 part of what allegedly transpired between this witness and  
23 Mr. Brugnara.

24 Is that acceptable to everyone?

25 **MS. HARRIS:** Well, your Honor --

1           **THE COURT:** Is there some part of that you're  
2 offering for the truth?

3           **MS. HARRIS:** Only that the photograph of the -- of  
4 the statute is in the book.

5           **THE COURT:** Well, that would still just be a -- it  
6 cannot be offered for the truth. It can only -- because that  
7 still would be hearsay.

8           But you can show that the photograph is in there and that  
9 that was part of what was the witness says was provided to the  
10 defendant.

11           **MS. HARRIS:** That's what we intend to do, your Honor.

12           **THE COURT:** It can be used for that purpose.

13           **MS. HARRIS:** Thank you.

14           (Trial Exhibit 5 received in evidence)

15 **BY MS. HARRIS:**

16 **Q** Drawing your attention now to Exhibit 5.

17 Why did you give the book, this Exhibit 5, to the  
18 defendant on April 7th, 2014?

19 **A** Because being exhibited at the Hermitage is one of the  
20 most important museums to be in in the world, and it has the  
21 Degas that he was purchasing from me --

22           **MR. BRUGNARA:** I object, your Honor.

23 **A** -- in the book.

24           **THE COURT:** I'm sorry. What?

25           **MR. BRUGNARA:** I object, your Honor.



1           **THE COURT:** What's the objection?

2           **MR. BRUGNARA:** Foundation of: Has she been to the  
3 Hermitage? She's making statements about the Hermitage as an  
4 expert.

5           **THE COURT:** But she's qualified to make that  
6 statement.

7           **MR. BRUGNARA:** To places she's never been, your  
8 Honor?

9           **THE COURT:** That's what experts do.

10          **MR. BRUGNARA:** Really?

11          **THE COURT:** Yes. People can be experts on places  
12 they have never been.

13          So that objection is overruled.

14 **BY MS. HARRIS:**

15 **Q** Ms. Long, have you ever been to the Hermitage Museum?

16 **A** Yes, I have. Several times.

17 **Q** Is it one of the most important museums in the world?

18 **A** Yes, it is.

19 **Q** Okay. Now, drawing your attention to the book that you  
20 brought Mr. Brugnara, did you explain to Mr. Brugnara that this  
21 book reflected an exhibit at the Hermitage?

22 **A** Yes, I did.

23 **Q** Did you actually show Mr. Brugnara where the book referred  
24 to the Hermitage?

25 **A** Yes, of course.

1           **MS. HARRIS:** Okay. May Ms. Long demonstrate for the  
2 jury what she showed Mr. Brugnara?

3           **THE COURT:** Yes. Yes, she may.

4 **BY MS. HARRIS:**

5 **Q** Can you show the jury on Exhibit 5 what you --

6           **MR. BRUGNARA:** Objection, your Honor.

7 **Q** -- specifically pointed out to --

8           **MR. BRUGNARA:** Objection, your Honor.

9           **MS. HARRIS:** May I finish the question before --

10           **THE COURT:** Just a moment. You both --

11           **MR. BRUGNARA:** This is hearsay.

12           **THE COURT:** That's not a valid objection to the  
13 question that is being requested, so the objection is  
14 overruled.

15           The witness will now hold up the page that is responsive  
16 to the question just asked by counsel.

17           **MR. BRUGNARA:** And, your Honor, can you make a note  
18 she's going through every page in the book starting about the  
19 middle and working her way backwards, so she clearly doesn't  
20 have knowledge of where that page is?

21           **MS. HARRIS:** Your Honor, can Mr. Brugnara just state  
22 a legal basis for his objection?

23           **THE COURT:** That is not a proper objection. That is  
24 overruled.

25           **THE WITNESS:** That's my fault. I just --

1           **THE COURT:** Do you have in mind the question anymore?

2           **THE WITNESS:** No.

3           **THE COURT:** Do you know what you're supposed to be  
4 doing?

5           **THE WITNESS:** Yes. Yes.

6           **THE COURT:** Find the page that counsel just referred  
7 to.

8           **MR. BRUGNARA:** Your Honor, she's going through every  
9 page in the book. If she knew where it was, your Honor, she  
10 would know the general vicinity of what page it's on, wouldn't  
11 she?

12           **THE COURT:** Have you -- can you find it, please?

13           **THE WITNESS:** I have.

14           **THE COURT:** Have you found it?

15           **THE WITNESS:** I'm sorry. I was looking at other -- I  
16 just love it. Love Degas.

17           **THE COURT:** Do you -- do you have it in front of you  
18 now?

19           **THE WITNESS:** Yes, I do.

20           **THE COURT:** Okay. Look down and make sure that you  
21 are on the page that you are -- all right. And then hold that  
22 up so the jury can see it.

23           (Book displayed)

24 **BY MS. HARRIS:**

25 **Q** And for the record, Ms. Long, can you describe for the

1 jury the photograph you're showing in Government's Exhibit 5?

2 **THE COURT:** Here is what, counsel, you should do.

3 **MS. HARRIS:** Okay.

4 **THE COURT:** Take the book and walk up slowly back and  
5 forth in front of the jury box so the jury can see it.

6 **MS. HARRIS:** May I pass it to the jury?

7 **MR. BRUGNARA:** Your Honor, that wasn't the objection.  
8 The objection was, she asked her what Hermitage notation was,  
9 and now she's trying to cover the question by saying: Okay,  
10 here is the picture.

11 Go back in the transcript. The question Was: Where is  
12 the Hermitage notation?

13 **THE COURT:** Just let the jury see what the witness  
14 turned to.

15 (Whereupon said book was published to the jury.)

16 **THE COURT:** Now, since the objection was made, and  
17 while the book is being passed around, Ms. Harris, is that  
18 the -- is that the page that you were referring to?

19 **MS. HARRIS:** Yes, it is, your Honor.

20 **THE COURT:** All right.

21 (Brief pause.)

22 **THE COURT:** All right. So, Ms. Harris, can you  
23 retrieve the book from the jury box and give it back to the  
24 witness and continue on with your next question.

25 (Said book returned to the witness.)

1 BY MS. HARRIS:

2 Q Ms. Long, did you identify Exhibit 5 to Mr. Brugnara as a  
3 book from the Hermitage Museum exhibits?

4 A Yes, I most definitely did.

5 Q Did you go through other pictures besides the Little  
6 Dancer with Mr. Brugnara when you showed it to him on  
7 April 7th?

8 A Yes, I did.

9 Q Okay.

10 A That's why I was looking through to.

11 Q Were there other pictures besides the Little Dancer that  
12 you and Mr. Brugnara looked at on April 7th?

13 A Most definitely.

14 Q Can you explain that to the jury?

15 A Yes. When he saw this and also knew that he had the crate  
16 right there and we were discussing this, then he took the book  
17 and was flipping all through it and asked me if I had any  
18 others.

19 So that's why I was doing it that way, because this, of  
20 course, would be the first one. Anybody knows that.

21 Q Was the first picture that you showed Mr. Brugnara on  
22 April 7th the picture of the Little Dancer that you showed the  
23 jury?

24 A Yes, it is.

25 Q And then did you and Mr. Brugnara look at other pictures

1 in Exhibit 5?

2 **A** Yes, we did.

3 **Q** Did Mr. Brugnara ask you anything about the other  
4 pictures?

5 **A** Yes. He asked me if I owned any of the other ones.

6 **Q** What did you respond?

7 **A** And I said, yes, I do.

8 **Q** Were there other works of Degas that Mr. Brugnara  
9 indicated he was interested in purchasing after he looked at  
10 the book?

11 **A** Yes.

12 **Q** Did you leave 224 Sea Cliff Avenue on April 7th without  
13 opening the art?

14 **A** Yes.

15 **Q** Why was that?

16 **A** Because he was only interested in talking about his home,  
17 and how important it was, and then talking about what else did  
18 I have. And he would not talk --

19 **MR. BRUGNARA:** Objection, your Honor. She's citing  
20 what I'm thinking, what I'm saying. That's not what I was  
21 thinking or saying. But, certainly, she can't go to my state  
22 of mind.

23 **THE COURT:** Well, all right. You can say -- you  
24 can -- that's a fair point. You cannot read his mind. You can  
25 only tell us what he said.

1           **THE WITNESS:** All right.

2           **THE COURT:** So you tell us what was actually said and  
3 what actually happened that you saw and heard. You can do  
4 that.

5           **THE WITNESS:** Yes. Thank you.

6 **BY MS. HARRIS:**

7 **Q** What did Mr. Brugnara say to you that caused you to leave  
8 without opening the art on April 7th?

9 **A** He said he had a real estate appointment, and that he  
10 didn't even know I was coming, and that he was very, very busy.

11 **Q** When Mr. Brugnara said to you that he didn't know that you  
12 were coming, had you ever, in email correspondence, explained  
13 that you would be in San Francisco for the delivery of the art?

14 **A** Definitely. Several times.

15 **Q** You mentioned that you went inside Mr. Brugnara's house.  
16 Where specifically were you taken in the house?

17 **A** We were sitting in his bay, and we were sitting on two  
18 chairs. And he proceeded to flip through these pieces. And  
19 after talking about his home as he was flipping through this,  
20 then we discussed his question about did I own any of the  
21 others.

22 **Q** Can you describe what the room looked like that you sat  
23 in?

24 **A** It didn't have hardly anything in it whatsoever.

25 **Q** Was there any furniture in it?

1   **A**     Just what I was sitting on, and a table, and a chair he  
2   was sitting on.

3   **Q**     What did the chair look like that you were sitting on?

4   **A**     I don't remember because it wasn't like a memorable piece  
5   of fine furniture.

6   **Q**     After you leaved -- left 224 Sea Cliff Avenue on  
7   April 7th, 2014, did you attempt to get in touch with the  
8   defendant about opening the crates, the five crates of art that  
9   had been left behind?

10  **A**     Most definitely. I did before I left.

11  **Q**     And then after you left, tell us what you did.

12  **A**     Then I called him a few hours later.

13  **Q**     What happened when you called Mr. Brugnara a few hours  
14  later?

15  **A**     He kept saying he can't do it at this time, he's a very  
16  busy man, and to call -- call him later.

17  **Q**     At any time after you called Mr. Brugnara, did you receive  
18  any text messages from him?

19  **A**     Yes, eventually, yes.

20           **MS. HARRIS:** Your Honor, may I approach the witness?

21           **THE COURT:** Yes.

22           While you're doing that. In case -- I don't remember if I  
23  don't say so, but Exhibit 5, the book, is received in evidence.  
24  I think I said that, but my notes are unclear.

25           All right.



1 BY MS. HARRIS:

2 Q Showing you what's been marked as Government's Exhibit 79  
3 for identification.

4 MR. BRUGNARA: I object, your Honor.

5 THE COURT: What's the objection?

6 MS. HARRIS: She hasn't even looked at it, your  
7 Honor.

8 MR. BRUGNARA: Objection is hearsay. Lacks  
9 foundation.

10 We can do a sidebar if you want, but this is a text  
11 message without any foundation. It's hearsay. It's basically  
12 the same reasons that the voicemails can't come in.

13 THE COURT: Let me see it.

14 (Whereupon, document was tendered to the Court.)

15 MS. HARRIS: Your Honor, this is a text message from  
16 Mr. Brugnara. It's an admission.

17 THE COURT: Well, just a minute.

18 MR. BRUGNARA: Your Honor, can we have a sidebar?

19 THE COURT: No.

20 (Brief pause.)

21 THE COURT: Let's hear the foundation and then  
22 we'll -- I'll hear any objections after I hear the foundation.  
23 Go ahead.

24 BY MS. HARRIS:

25 Q Ms. Long, I'm drawing your attention to Page 1 of

1 Government's Exhibit 79. There's the date Wednesday, April 9  
2 at 9:38 a.m.

3 Is that the approximate date and time on which you  
4 received the text message that's Government's Exhibit 79?

5 **A** Yes, it is.

6 **Q** And then above that there is a phone number. What is that  
7 phone number?

8 **A** It's a return call-back from Luke Brugnara.

9 **Q** I just asked you what the phone number is. Can you read  
10 it for us?

11 **A** Yes. (415)871-8011.

12 **Q** Is that the phone number that you --

13 **MR. BRUGNARA:** Your Honor, objection.

14 **Q** -- asked for --

15 **MR. BRUGNARA:** It's a statement -- a presumption of  
16 Luke Brugnara's phone number.

17 **THE COURT:** Just a minute.

18 **MR. BRUGNARA:** There is no foundation that that is,  
19 in fact --

20 **THE COURT:** We're going to find out if there is  
21 foundation. And if it doesn't get into evidence, it doesn't  
22 get into evidence.

23 But ask your next question.

24 **BY MS. HARRIS:**

25 **Q** Is that the phone number you understood was Mr. Brugnara's

1 phone number?

2 **A** Yes.

3 **THE COURT:** Based on what?

4 **THE WITNESS:** I'm --

5 **MS. HARRIS:** I'm going to show the witness an  
6 exhibit.

7 **THE COURT:** All right. All right. Go ahead.

8 **BY MS. HARRIS::**

9 **Q** Okay. Drawing your attention to Government's Exhibit 73,  
10 which is in evidence.

11 **A** Yes.

12 **MS. HARRIS:** If we could pull up Exhibit 73 on the  
13 screen?

14 (Document displayed)

15 **BY MS. HARRIS:**

16 **Q** I would ask you to look at the first line of Government's  
17 Exhibit 73, which is in evidence. The email from Mr. Brugnara:

18 "The shippers can coordinate delivery by calling  
19 me at (415)871-8011."

20 Did Mr. Brugnara write that to you on March 28, 2014 as  
21 his phone number?

22 **A** Yes, he did.

23 **Q** Is that the same phone number that we see on Government's  
24 Exhibit 79?

25 **A** Yes, it is.

1           **MS. HARRIS:** Your Honor, I offer Government's  
2 Exhibit 79 into evidence.

3           **MR. BRUGNARA:** Objection.

4           **THE COURT:** What is the objection?

5           **MR. BRUGNARA:** My objection is she made a comment  
6 that's presumptive, without foundation, that it's my phone  
7 number; that I sent it.

8           I'm not saying that it isn't or it isn't, but the rules  
9 have to be the same for both sites.

10          **THE COURT:** Well --

11          **MR. BRUGNARA:** If I'm not allowed to get in  
12 telephonic voice messages and texts, they shouldn't be allowed  
13 to either. But if they are, then I'm happy to put in mine.

14          But you're precluding me and you are allowing them under  
15 the same standard, but we need to be on the same -- same rules.

16          **THE COURT:** All right. Let me say two things.

17          One, the foundation has been laid for this to come into  
18 evidence, so Exhibit 79 is received.

19          (Trial Exhibit 79 received in evidence)

20          **THE COURT:** There is sufficient evidence from which  
21 the jury could conclude that the messages were sent by  
22 Mr. Brugnara.

23          And with respect to the second point that has just been  
24 laid in front of the jury, I will explain to the jury and to  
25 the defendant: Any statement made by the defendant is an

1 admission, which the Government has the right to put into  
2 evidence, but the defendant himself does not necessarily have  
3 the right to put in. It's -- there is a good reason behind  
4 that rule, but I don't need to get into it. But the rule works  
5 that the -- the Government may -- as the adverse party, may put  
6 into evidence anything relevant that has been said by the  
7 defendant.

8       On the other hand, the defendant does not have the right  
9 to put in anything he said in the past. There is an exception,  
10 and that is whenever it needs to be put in for the sake of  
11 completeness on something that was put in by the Government in  
12 order to make sure that what the Government has put in is not  
13 misleading, then, of course, we would allow it under the rule  
14 of completeness.

15       But that's the rule, and Mr. Brugnara did not properly  
16 state the rule a moment ago, and his objection is overruled.

17       All right. Continue. Continue on.

18       **MR. BRUGNARA:** Your Honor, I object under rule of  
19 completeness because there is preceding emails in the chain --  
20 excuse me, preceding text messages in the chain --

21       **MS. HARRIS:** Your Honor --

22       **MR. BRUGNARA:** -- that need to be in the chain.

23       **MS. HARRIS:** -- Mr. Brugnara is testifying now.

24       **THE COURT:** Well, and possibly there are. And I will  
25 consider them under the rule of completeness, if you bring them

1 to my attention. But the Government is not required to put in  
2 every single thing that has ever been uttered in this case by  
3 the defendant.

4 All right. Go ahead. Next question.

5 **MS. HARRIS:** May we bring up Exhibit 79 and publish  
6 it to the jury?

7 **THE COURT:** Yes, you may.

8 (Document displayed)

9 **BY MS. HARRIS:**

10 **Q** Drawing your attention to the text message you received  
11 from Mr. Brugnara on April 9 at 9:38 in the morning. Did you  
12 receive this text message in response to your trying to get in  
13 touch by phone with Mr. Brugnara?

14 **A** Yes, I did.

15 **Q** Okay. And what did Mr. Brugnara tell you on April 9, two  
16 days after the art had been delivered?

17 **A** He wrote "Sorry. I'm busy. Call back later."

18 **Q** Did you respond to Mr. Brugnara in Exhibit 79?

19 **MR. BRUGNARA:** I object, your Honor, to that  
20 statement. That's a pre -- pre-registered AT&T message that's  
21 a telephonic button to push. She said I wrote it. I didn't  
22 write it.

23 **THE COURT:** Well there is no evidence before the  
24 jury. What -- what counsel -- what Mr. Brugnara just said is  
25 not evidence. It is not evidence. It is not evidence. The

1 jury will disregard it.

2 All right. Now, number two. I do need to say, is that  
3 green part what you responded?

4 **THE WITNESS:** Yes, it is.

5 **THE COURT:** All right. The green part may not be  
6 considered for the truth of anything. Because it can only be  
7 considered for what she -- how she responded and to explain  
8 what the transaction, the back-and-forth, was.

9 But the green part is hearsay, isn't it? It is.

10 **MS. HARRIS:** Yes.

11 **THE COURT:** All right. So it can only be considered  
12 for purposes of the give-and-take that went on in these text  
13 messages between the -- whoever said "Sorry, I'm busy. Call  
14 back later" and the green part.

15 So, but the parts that if the jury concludes were sent by  
16 the defendant, those can be considered for any purpose without  
17 limitation.

18 All right. Go ahead.

19 **BY MS. HARRIS:**

20 **Q** All right. Ms. Long, let's start at the beginning. What  
21 telephone number did you receive the text from that says,  
22 "Sorry, I'm busy. Call back later" in the upper --

23 **A** Yes. It is (415)871-8011.

24 **Q** Was that a number known to you as Mr. Brugnara's phone  
25 number?

1 A Yes.

2 Q Did you respond when Mr. Brugnara texted you -- the person  
3 using the phone number 871-8011 texted you "Sorry. I'm busy.  
4 Call back later." Did you respond to him?

5 A Yes, I did.

6 Q By the way, the content of the text "Sorry, I'm busy.  
7 Call back later," did Mr. Brugnara also say that to you in  
8 telephone calls you had made prior to this text?

9 A Yes, he did.

10 Q Did he use words almost identical to the text?

11 A Yes, he did.

12 Q All right. Let's now look at what you responded to  
13 Mr. Brugnara. You sent a very lengthy text that's Government's  
14 Exhibit -- attached to Government's Exhibit 79. You say:

15 "I'm not leaving. I'm very sorry we did not get  
16 to sit down and answer your concerns and your answer  
17 completely because I did not know we wouldn't be  
18 opening the crates together along with your  
19 authenticator."

20 What did you mean when you said you didn't know you  
21 wouldn't be opening the crates along with Mr. Brugnara's  
22 authenticator?

23 A When they arrive, that is the customed thing you always  
24 do, is authenticate them immediately. And he told me he would  
25 have his authenticator there also.



1 Q Now, if we could look at Page 2 of Government's Exhibit  
2 79, the continuation of your text. And if we could  
3 specifically highlight the sentence that begins "I know you are  
4 a very busy man."

5 (Document highlighted.)

6 "I know you are a very busy man, but I never  
7 dreamed you would assume I wouldn't be a nervous  
8 wreck leaving them in a garage."

9 What did you mean?

10 A Exactly that. I just -- the fact that he was avoiding,  
11 first of all, letting me authenticate them. And, second, to  
12 think that they were in a garage. I needed to know where they  
13 were going.

14 Q Had you ever in your entire career left crates of valuable  
15 art in someone's garage?

16 A Absolutely not.

17 Q Did you know that that's where the crates of art were  
18 going to be left when you arranged to have them shipped to  
19 Mr. Brugnara?

20 A No, not at all.

21 Q And then you say, continuing on in the text:

22 "No matter your significance and wealth, I was  
23 horrified and am still concerned."

24 What did you mean by you were "horrified"?

25 A Well, I'm still horrified, the fact that they were in a

1 garage. And I didn't know where they may possibly be moved, or  
2 if he didn't want me to know about his museum, or if the museum  
3 was in another state. I didn't know.

4 **Q** And then you say:

5 "How quickly your expert will arrive to evaluate  
6 my works of art. Please send me his name."

7 At any point did Mr. Brugnara during this transaction ever  
8 send you the name of an art authenticator?

9 **A** No, he did not.

10 **Q** And then you ask for:

11 "During our ten minutes with interruptions for  
12 your real estate acquisitions..."

13 Were you -- what were you referring to there?

14 **A** He had a gentleman arrive and acted as if they had a real  
15 estate appointment.

16 **Q** Let's take a look at the next page of Government's  
17 Exhibit 79. This is Page 3 for the record.

18 **MR. BRUGNARA:** Your Honor, I am going to object to  
19 that presumption "acted." She's making statements of state of  
20 mind in top real estate executives in the whole Bay Area. She  
21 said "he acted as if he had a transaction."

22 **THE COURT:** Overruled. It was -- it was -- she  
23 testified as if -- as it appeared to her, and that's something  
24 she could have observed. So that is -- objection is overruled.

25 **THE WITNESS:** I was even introduced to him.

1           **THE COURT:** What?

2           **THE WITNESS:** I was introduced to him also.

3           **THE COURT:** All right. Next question.

4 **BY MS. HARRIS:**

5 **Q** If we could look now at Page 3 of Government's Exhibit 79,  
6 and specifically the portion of your text message that says:

7           "I cannot leave S.F. without your acknowledgment  
8 in writing of having them in your possession. Next,  
9 by your not letting me inspect the works of art, you  
10 are causing me a breach of contract on any claim.  
11 God forbid. That was the purpose of five days needed  
12 to complete our transaction."

13 What were you referring to?

14 **A** Just everything that had been going on. I -- he was not  
15 allowing me to, you know, meet with him, see him, do anything  
16 that was the proper way to handle this situation.

17 **Q** Okay. Now, let's take a look at Page 4 of Government's  
18 Exhibit 79, the continuation of the text message. And  
19 specifically let's look at the sentence that begins:

20           "You have my and a client's works of arts, and I  
21 will not leave them in a turmoil, due to the fact  
22 that you are causing us to wait."

23 Do you see that?

24 **A** Yes, I do.

25 **Q** What were you intending to convey with this portion of

1 your text?

2 **A** That I had no intentions of leaving until this matter was  
3 settled.

4 **Q** Okay. And then you say:

5 "This is not correct business behavior for  
6 anyone, knowing what a dangerous position for me  
7 financially."

8 What did you mean?

9 **A** Well, with someone trying to avoid you and not, you know,  
10 allow you to correct any of the problems --

11 **MR. BRUGNARA:** Objection, your Honor. Foundation.

12 **THE WITNESS:** Your avoidance.

13 **THE COURT:** She's explaining what she meant at the  
14 time. That's something she would understand and have  
15 foundation to do.

16 Overruled. Please, continue with your answer.

17 **BY MS. HARRIS:**

18 **Q** Can you explain to us what you were intending to convey?

19 **A** Yes. Every single time I contacted him, he had one reason  
20 or another or would, you know, even scream at me how busy he  
21 was and I kept interrupting him.

22 **Q** Now, let's look at the last page of Government's  
23 Exhibit 5 -- 79, and specifically the portion of your text  
24 where you say:

25 "Hope you will work with and not be belligerent."

1 Just give me the time and date."

2 What did you mean when you said, "Hope you will work with  
3 and not be belligerent"?

4 **A** Because he had become very, very belligerent and rude, and  
5 not even using the best of language.

6 **MR. BRUGNARA:** Objection, your Honor. Presumptive  
7 regarding state of mind, someone other than herself.

8 **THE COURT:** Lay opinion. Overruled.

9 Please continue.

10 **BY MS. HARRIS:**

11 **Q** Can you describe what you meant, and if you had any  
12 specific examples of what you were referring to when you said  
13 that Mr. Brugnara had become belligerent with you?

14 **A** Well, the -- the one that really upset me is he said:  
15 "Why don't you just run on back to the south and play with your  
16 Pom?"

17 **MR. BRUGNARA:** Objection, your Honor.

18 **THE COURT:** What's the objection?

19 **MR. BRUGNARA:** The objection is there is no  
20 foundation. She said I'm too busy to talk with her, but I know  
21 she has a dog. It's absurd.

22 **THE COURT:** The witness is -- any witness has  
23 foundation to testify as to what somebody else said to them.

24 That objection is overruled.

25

1 **BY MS. HARRIS:**

2 **Q** Okay. Ms. Long, so that we have a clear record, can you  
3 explain what Mr. Brugnara said to you about going back to the  
4 South?

5 **A** Yes. He specifically told me that he is too -- he's too  
6 busy to be answering phones for me and that I have pulled him  
7 away from too many busy meetings, and why don't I run home to  
8 the South and play with my Pom.

9 **Q** At any point had you told Mr. Brugnara when you were there  
10 on April 7 that you had a dog?

11 **A** Yes.

12 **Q** And did you mention the breed of the dog?

13 **A** Yes.

14 **Q** What was the breed?

15 **A** Pomeranian.

16 **Q** Did you tell that to Mr. Brugnara?

17 **A** Oh, yes.

18 **MS. HARRIS:** Your Honor, may I approach the witness?

19 **THE COURT:** Yes.

20 **BY MS. HARRIS:**

21 **Q** I'm handing you what's been marked as Government's  
22 Exhibit 80 for identification.

23 (Whereupon document was tendered to the witness.)

24 **Q** Do you recognize Government's Exhibit 80?

25 **A** Yes, I do.

1 Q What is Government's Exhibit 80?

2 A They are emails.

3 Q Is there a telephone number at the top of the page of  
4 Government's Exhibit 80?

5 A Yes. (415)871-8011.

6 Q Do you know the difference between a text message and an  
7 email?

8 A Yes, I do.

9 Q What is Government's Exhibit 80?

10 A These are -- these are texts.

11 MS. HARRIS: Your Honor, I offer Government's  
12 Exhibit 80 into evidence.

13 THE COURT: Any objection?

14 MR. BRUGNARA: Same objection, your Honor, as before.

15 THE COURT: All right. Overruled. Please --  
16 received in evidence.

17 (Trial Exhibit 80 received in evidence.)

18 THE COURT: You may publish it.

19 Same admonition to the jury.

20 (Document displayed)

21 BY MS. HARRIS:

22 Q Ms. Long, before asking you any questions about  
23 Government's Exhibit 80, during this period of time that you  
24 were trying to communicate with Mr. Brugnara, the period of  
25 time we're talking about, did you extend your stay in

1 San Francisco?

2 **A** Yes, I did.

3 **Q** And did you take additional nights at a hotel?

4 **A** Oh, yes.

5 **Q** How many approximately?

6 **A** It was weeks.

7 **Q** Did you pay for that yourself?

8 **A** Yes, I did.

9 **Q** Now, let's take a look at the text message that's  
10 Government's Exhibit 80.

11 (Document displayed)

12 **Q** Was this the text message that you received from the phone  
13 number (415)871-8011?

14 **A** Yes, it is.

15 **Q** Okay. Let's take a look at the first line:

16 "Rose, you freely gave these items April 7th  
17 because you said you were downsizing and wanted me to  
18 have them."

19 Was this the first time that Mr. Brugnara ever suggested  
20 that the items of art that were delivered on April 7th were a  
21 gift from you?

22 **A** Absolutely. I mean, first of all, I did not even  
23 understand what he was saying.

24 **Q** And then he says:

25 "You know I lost 300,000 on the Renoir you sold



1 me years ago. It was worth 300 less than the 500k  
2 you sold it to me when I sold it at Sotheby's."

3 Did Mr. Brugnara ever say anything to you about the Renoir  
4 at any point before you received this text message?

5 **A** Never.

6 **Q** Now let's look at Page 2 of Government's Exhibit 80.  
7 (Document displayed)

8 **Q** And Mr. Brugnara says:

9 "I'm confused by your text, as your attorney has  
10 been in contact with my attorney for several days to  
11 resolve this matter."

12 At this point had you consulted with an attorney  
13 concerning Mr. Brugnara's refusal to pay or return the artwork?

14 **A** I -- I was -- yes, I consulted one. He was not my  
15 attorney.

16 **Q** What was of the name of the attorney you consulted with?

17 **A** Harvey Schochet.

18 **Q** Okay. Now, looking at the text messages, another one  
19 comes in after the one we just read, and it says:

20 "Rose, I also need to inform you that your  
21 attorney forwarded to my attorney invoices which were  
22 never given to me from you."

23 Did you give Mr. Brugnara invoices on April 7, 2014?

24 **A** Yes.

25 **Q** And did you give him the invoices when you were at the 224

1 Sea Cliff Avenue residence to inspect the art with  
2 Mr. Brugnara?

3 **A** Yes, I did.

4 **Q** Okay. Then it says:

5 "These invoices sent to my attorney were not  
6 billed to any recipient, as you gave me these items  
7 as a gift."

8 Was this the first time that Mr. Brugnara maintained that  
9 you were giving him the five crates of art as a gift?

10 **A** Well, yes.

11 **Q** What -- what did you -- what was your reaction when you  
12 received this text?

13 **A** As I still am, I'm just shocked.

14 **Q** Now, if we could look at the next part of the text, which  
15 is on Page 3 of Government's Exhibit 80.

16 The text from the phone number (415)871-8011 says:

17 "There was no sale or written or verbal sales  
18 agreement. Moreover, your values on those invoices,  
19 documents sent to my attorney, are not accurate  
20 regarding values."

21 At any point before you received the text that's  
22 Government's Exhibit 80, had Mr. Brugnara raised any issue with  
23 you concerning the value of the five crates of art?

24 **A** No, he had not.

25 **Q** Let's look at the next line, and if we can highlight it,

1 the line that starts "Notwithstanding."

2 (Document highlighted.)

3 The next line of the text that you received from

4 Mr. Brugnara says:

5 "Notwithstanding you giving the items to me as a  
6 gift."

7 Had you ever given the items that were delivered to  
8 Mr. Brugnara as a gift?

9 **A** Absolutely not.

10 **Q** Had you ever made had an \$11 million gift to anyone in  
11 your life?

12 **A** No, I have not.

13 **Q** And then he goes on about:

14 "For example, the de Kooning Foundation, which  
15 oversees and controls de Kooning artwork, does not  
16 recognize or accept the pieces as authentic."

17 Did Mr. Brugnara in your presence ever open the crates of  
18 art of the de Koonings?

19 **A** No, he did not.

20 **Q** Okay. Now, if we could look at the next page of  
21 Government's Exhibit 50 --

22 **MR. BRUGNARA:** Your Honor, I object to that -- that  
23 question. It was leading, and evidence has already been put in  
24 that all of the paintings of the -- the de Koonings were  
25 provided by high resolution email transmissions. You know,

1 it's trying to mislead -- mislead the Court.

2           **THE COURT:** All right. The jury will disregard the  
3 comments just made by Mr. Brugnara about what the record does  
4 or does not show. That's for you to decide.

5           Objection is overruled. Next question.

6 **BY MS. HARRIS:**

7 **Q** If we could go now -- we're going to look at the continued  
8 text here, and then I'll ask you to clarify some information  
9 about the de Koonings.

10           But let's look at what Mr. Brugnara says about the Degas,  
11 and we'll read the text now. If we could highlight it?

12           (Document highlighted.)

13           "The Degas that was shown on your email is a  
14 Russian production from 15 years ago of Degas" --

15           **THE COURT:** You misspoke. You said "production" --

16           **MS. HARRIS:** Oh, sorry.

17           **THE COURT:** -- and I think you meant "reproduction."

18           **MR. BRUGNARA:** She did it --

19           **THE COURT:** Please start over.

20           **MS. HARRIS:** I'm sorry about that, your Honor.

21 **BY MS. HARRIS:**

22 **Q** (As read)

23           "The Degas that was shown on your email is a  
24 Russian reproduction from 15 years ago of Degas  
25 original sculptures from 100 years ago. These

1 reproductions of the Little Dancer were sold by the  
2 Russian Foundry at \$65,000 each in 2000 through  
3 2004."

4 Do you have any idea what Mr. Brugnara is talking about?

5 **A** No. This is just total -- you know what, can I say? He  
6 hadn't even opened the crate. So you can't determine all these  
7 ideas just from looking at a crate.

8 **MR. BRUGNARA:** Your Honor, objection.

9 **MS. HARRIS:** Okay.

10 **MR. BRUGNARA:** Your Honor, objection. She's making a  
11 state-of-mind statement regarding my state of mind based upon  
12 the evidence presented, the high resolution photos. And then  
13 she's making a determinative of my state of mind based upon  
14 what I was thinking and what I relied upon.

15 **MS. HARRIS:** Your Honor, I'm going to move to strike  
16 Mr. Brugnara's remarks.

17 **THE COURT:** Well, that motion is granted.

18 I'm trying to remember what the witness said. You -- but  
19 you don't know whether he opened the crates after you left, so  
20 that --

21 **THE WITNESS:** I do.

22 **THE COURT:** How do you know that?

23 **THE WITNESS:** Because when the FBI obtained them,  
24 confiscated them, I was brought in to authenticate them and  
25 they had never been opened.

1           **THE COURT:** Which ones?

2           **THE WITNESS:** All four that he had. And he kept the  
3 Degas and he won't tell us where it is.

4           **MR. BRUGNARA:** I object, your Honor.

5           **THE COURT:** Well, I think that objection is -- is  
6 overruled.

7           Well, all right. The testimony will stand.

8           **MR. BRUGNARA:** Your Honor.

9           **MS. HARRIS:** Okay. Can I --

10          **MR. BRUGNARA:** Your Honor.

11          **MS. HARRIS:** -- reask --

12          **MR. BRUGNARA:** Your Honor.

13          **MS. HARRIS:** -- the question --

14          **MR. BRUGNARA:** Your Honor.

15          **MS. HARRIS:** -- your Honor?

16          **MR. BRUGNARA:** Her answer just affirmed your  
17 question.

18          **THE COURT:** Which was?

19          **MR. BRUGNARA:** Well, it was under the presumption if  
20 this was delivered and I opened it, I certainly would have seen  
21 it. I mean, you know, this is ridiculous.

22          **THE COURT:** The jury -- the jury will understand the  
23 purport of the testimony and the basis for her comment that he  
24 had not opened the crates. So that's now been clarified.

25          Next question.

1 BY MS. HARRIS:

2 Q Okay. Getting back to the text message that we were  
3 discussing.

4 A Yes.

5 Q Okay. There is some verbiage about the Degas. Do you see  
6 what Mr. Brugnara -- Brugnara is writing:

7 "The Degas that was shown on your email is a  
8 Russian reproduction from 15 years ago of Degas  
9 original sculptures from 100 years ago."

10 Do you see that?

11 A Yes, I do.

12 Q Of all the pieces that were shipped to Mr. Brugnara, based  
13 on your experience, what was the most valuable single piece of  
14 art?

15 A The Degas.

16 Q The Little Dancer?

17 A The Little Dancer.

18 Q Now, Mr. Brugnara in Exhibit 80 talks about the George  
19 Luks.

20 "The Luks portrait, if authentic, is worth 30k  
21 to 50k, according to Sotheby's, New York City."

22 Do you have any idea what that is referring to?

23 A Well, since Sotheby's hasn't seen it, except to give a  
24 value many, many years ago, and it certainly was nothing like  
25 that.

1 Q How much did you pay for the George Luks in 2013?

2 A 350,000.

3 Q Which you paid \$350,000 for the George Luks, is that what  
4 you thought it was worth?

5 A Yes.

6 Q Okay. Now let's look at the last line of this page where  
7 it starts:

8 "In short, the actual commercial value of the  
9 gift received."

10 Do you see that?

11 A Yes.

12 Q If we could blow that up?

13 (Document enlarged.)

14 Q See where Mr. Brugnara says:

15 "In short, the actual commercial value of the  
16 gift received, if they are what you state in your..."

17 And then it continues on.

18 "... in your email to my attorney..."

19 And it goes to the next page.

20 "... is approximately 100,000 to \$120,000."

21 What was the approximate value of the art that you sold to  
22 Mr. Brugnara as indicated by the prices you quoted him, the  
23 total value?

24 MR. BRUGNARA: Your Honor, that's hearsay.

25 A \$11 million.



1           **THE COURT:** What?

2           **MR. BRUGNARA:** She can ask her what her opinion of  
3 the value is, but she said what is the value of that. That's  
4 hearsay.

5           **THE COURT:** Well, the jury will understand that  
6 the -- the basis for her testimony.

7           The objection is overruled. Please answer.

8   **A**     \$11 million.

9   **BY MS. HARRIS:**

10   **Q**     And then Mr. Brugnara continues to maintain this is a  
11 gift.

12           "The commercial value of the gift received, if  
13 they are what you state in your email to my attorney,  
14 is approximately 100,000 to \$120,000 total. This is  
15 the gift valuation I will use for my records."

16           Again, did you ever make a gift of any of the art that was  
17 shipped to Mr. Brugnara on April 7, 2014?

18   **A**     Absolutely not.

19   **Q**     Was the first time that Mr. Brugnara made the claim that  
20 the artwork that was delivered on April 7, 2014 was a gift in  
21 this text message? Was that the first time you ever heard  
22 that?

23   **A**     Yes.

24   **Q**     Now, Mr. Brugnara in his text message that we looked at,  
25 Government's Exhibit 80, maintained that the gift valuation

1 that he was going to use was 100,000 to \$120,000 for the art  
2 that he kept.

3 Did he ever pay you that amount?

4 **A** No.

5 **Q** Did he ever pay you any amount?

6 **A** No.

7 **Q** As you sit here testifying today did Mr. Brugnara ever pay  
8 you a single penny for the art that was shipped on April 7,  
9 2014?

10 **A** Not one penny.

11 **Q** Did Mr. Brugnara ever return any of the art that was  
12 delivered on April 7, 2014?

13 **A** No, he didn't.

14 **Q** You mentioned that you were actually personally present  
15 when some of the crates of art were opened that the FBI had  
16 seized. Do you remember that testimony?

17 **A** Yes, that is true.

18 **Q** And you gave that in response to the Court's questions; do  
19 you remember that?

20 **A** Yes.

21 **Q** Okay. Was all of the art recovered that had been  
22 delivered to Mr. Brugnara?

23 **A** No. Every -- all -- the four crates were there and had  
24 never been opened. And the one crate with the Degas Little  
25 Dancer, 14 Year Old Dancer, was missing.

1 Q Has the Little Dancer that was shipped to Luke Brugnara  
2 ever been recovered?

3 A Not to this moment. He refuses to...

4 MS. HARRIS: Your Honor, I have no further questions.

5 THE COURT: All right. Well, it's 11:30. We're  
6 going to take a 15-minute break and then we'll come back for  
7 cross-examination. Thank you.

8 THE CLERK: All rise.

9 (Jury exits the courtroom at 11:30 a.m.)

10 THE COURT: Please be seated.

11 Ms. Littlejohn, you may take a 15-minute break. Just be  
12 back.

13 Do you have something to take up with the judge?

14 MR. BRUGNARA: I would like -- if Ms. Rose would like  
15 to hear, also. I just want to make sure that she doesn't speak  
16 to anybody from the U.S. Attorney's Office and that the  
17 Marshals, to preserve the integrity of the testimony on the  
18 cross --

19 THE COURT: Once the cross examination starts, that's  
20 the rule, so. But it hasn't started yet.

21 MR. BRUGNARA: That's not my understanding. They  
22 can't -- they can't speak to her and -- and -- speak to a  
23 witness. That's witness tampering.

24 MS. HARRIS: Your Honor --

25 THE COURT: I --

1           **MS. HARRIS:** -- I understand what the elements of  
2 proof are for criminal witness tampering. I will not talk to  
3 Ms. Littlejohn at all.

4           But I have some things I would like to address with the  
5 Court before cross examination starts, and I would like that to  
6 be done outside the presence of the witness.

7           **THE COURT:** All right. You may step down and go out  
8 into the hallway.

9           (Witness steps down.)

10          **MR. BRUGNARA:** Your Honor, the Marshals are going  
11 to -- are going to make sure of that, correct?

12          **THE COURT:** Make sure of what?

13          **MR. BRUGNARA:** Well, that the integrity of the court  
14 is preserved.

15          **THE COURT:** The rule in my courtroom is that once the  
16 cross examination starts, the lawyers are not supposed to talk  
17 to the witness.

18          **MR. BRUGNARA:** Okay.

19          **THE COURT:** But it hasn't started yet. You haven't  
20 asked the first question on cross.

21          **MR. BRUGNARA:** All right. But my understanding --

22          **THE COURT:** That's your understanding. I'm the one  
23 that makes the rules, and that is the rule.

24          **MR. BRUGNARA:** So you're saying that witnesses can --  
25 can be prepared before testimony and that's not witness

1     tampering?

2                 **THE COURT:**   Witnesses can be interviewed.

3                 **MR. BRUGNARA:**   Interviewed for information, that's  
4     correct.

5                 **THE COURT:**   And they can be interviewed.   And the  
6     Government, in my view, is free to do that now.   But once you  
7     start with your cross --

8                 **MR. BRUGNARA:**   Well, hold.   Hold.   Hold.

9                 **THE COURT:**   -- then there is a problem.

10                **MR. BRUGNARA:**   They can be interviewed for  
11     information?   She's -- they've already -- they've already  
12     questioned her.   What -- what -- what purpose would an  
13     interview serve?

14                **THE COURT:**   You don't get to ask those questions.  
15     Your point is preserved for appeal.

16                All right.   When do you want to bring up?

17                **MS. HARRIS:**   Your Honor, based on the way that  
18     Mr. Brugnara attempted to cross examine Mr. Maibaum, I want to  
19     make sure that we have certain understandings, because he was  
20     testifying, getting in absolute rank hearsay.   And the Court  
21     was continually forced, unfortunately, to instruct the jury to  
22     disregard the -- the question or to strike certain aspects of  
23     the testimony.

24                And my concern is that Mr. Brugnara, as he told his mother  
25     he was going to do, is going to do the exact same thing with

1 Ms. Long. His view is once it's out, the jury has heard it.  
2 We know that's his view. We provided you the telephone call,  
3 and he's demonstrated --

4 **MR. BRUGNARA:** Your Honor. Your Honor --

5 **MS. HARRIS:** I am not finished. I am not finished.

6 (Continuing) -- and that is the concern the Government  
7 has. It would be absolutely improper, and it's very confusing  
8 for the jury.

9 They are presumed to follow the Court's instructions, but  
10 Mr. Brugnara is trying to do what it is that he said he was  
11 going to do when he talked to his mother.

12 And I want to make sure that he understands what hearsay  
13 is and what his statements are that are not admissible. They  
14 are not admissions coming from him.

15 **MR. BRUGNARA:** Okay. My response to that is I wrote  
16 down your four directives from two days ago, and I memorized  
17 them, your Honor, and I followed them. And I'm not an  
18 attorney, and I'll do my best to present the evidence, to make  
19 sure it's presented, because that's the only way it's going to  
20 benefit me, if the evidence comes into evidence.

21 So if I have a question, I'll go back and ask Mr. Tamor  
22 and Mr. Stevens.

23 **THE COURT:** I think the Government is right. But I  
24 don't know what more I can say than I have already said. And  
25 I'm trying, struggling the best I can to give a fair trial to

1 somebody who refused a lawyer.

2 **MR. BRUGNARA:** Your Honor --

3 **THE COURT:** I don't know. Mr. Brugnara, if you get  
4 out -- you've gotten out of line so many times in this trial  
5 that -- but I'm ordering you to comply with the Rules of  
6 Evidence. There.

7 Now, the --

8 **MR. BRUGNARA:** Can I use the bathroom?

9 **THE COURT:** But there is one thing -- let's not --  
10 there is one thing that you said, Ms. Harris, that's not right,  
11 which is that the give-and-take on this transaction -- all of  
12 these emails, it's not true that you can just put in your side  
13 and he can't put...

14 Anything that deals with the back-and-forth between Ms.  
15 Long and Mr. Brugnara should be laid before the jury, because  
16 that's part of the transaction. So that if you just put in the  
17 part that helps you, he's entitled to put in the part of those  
18 emails and telephone calls that help him.

19 **MS. HARRIS:** I understand that, your Honor. My point  
20 is that when Mr. Maibaum was on cross examination, that is not  
21 what Mr. Brugnara did.

22 **MR. BRUGNARA:** Your Honor.

23 **MS. HARRIS:** He put --

24 **MR. BRUGNARA:** Your Honor.

25 (Unreportable cross talk.)

1           **THE COURT:** Stop. Wait.

2           **MR. BRUGNARA:** She's trying to disrupt my cross --

3           **MS. HARRIS:** He put --

4           **MR. BRUGNARA:** Your Honor. Your Honor. I need to  
5 prepare for any cross examination -- and I -- and she's trying  
6 to disrupt my cross examination.

7           **THE COURT:** Stop. Stop.

8           **MR. BRUGNARA:** Your Honor, please.

9           **MS. HARRIS:** I'm not finished.

10          **MR. BRUGNARA:** I need to go to the bathroom, please.

11          **THE COURT:** All right, look. We're going to leave it  
12 there. If you get out of control, Mr. Brugnara, I have to  
13 overrule your objections. I have to tell the jury to disregard  
14 it. And, you know, you're -- you're trying your own case.

15          I will say this. I don't think you're helping yourself.

16          **MR. BRUGNARA:** Well, your Honor --

17          **THE COURT:** I think the way you're going about this  
18 is -- is that you're digging the hole deeper --

19          **MR. BRUGNARA:** What?

20          **THE COURT:** -- is my professional opinion. But  
21 you're in charge of your case --

22          **MR. BRUGNARA:** Well --

23          **THE COURT:** -- and you're the lawyer.

24          **MR. BRUGNARA:** I have been sitting in a dungeon for  
25 11 months, and this is not my preference. And I can't wait



1 four months for a competent attorney to present my case. I was  
2 put in this position, not by my choice.

3 **THE COURT:** Well, take that up with the Court of  
4 Appeals.

5 We're going to take a few minutes break and come back.  
6 Please be ready to go.

7 (Whereupon there was a recess in the proceedings  
8 from 11:36 a.m. until 11:49 a.m.)

9 **MS. HARRIS:** Your Honor, I understood the Court's  
10 position, and I agree with it, that the course of dealings  
11 between the two come in. But Mr. Brugnara cannot testify to  
12 his own hearsay statements. He can only ask Ms. Long what he  
13 said to her. He can't say: I told you X, Y, and Z, didn't I?  
14 He can say: What did I tell you.

15 **THE COURT:** Why can't he use a leading question?

16 **MS. HARRIS:** He can lead, but he can't testify as to  
17 what he said. That's hearsay from him.

18 **THE COURT:** But he could say: Didn't I tell you the  
19 light was red? Why can't he do that? If a lawyer in good  
20 faith does that -- I mean, if a lawyer in good faith said:  
21 Didn't so-and-so tell you the light was red?

22 **MS. HARRIS:** Our concern is the second part of the  
23 question.

24 **THE COURT:** I understand that it can be very easily  
25 abused.

1           **MS. HARRIS:** Okay.

2           **THE COURT:** But I -- it is a proper form of question.  
3 I can't rule it out completely.

4           **MS. HARRIS:** Okay.

5           **THE COURT:** Come on up here, Ms. Long.  
6 Welcome back. Please have a seat.

7 (Brief pause.)

8           **THE COURT:** Everyone over there in the jury box got  
9 your notepads ready and ready to go? All right. Good.  
10 Madam Witness, are you ready?

11           **THE WITNESS:** Yes.

12           **THE COURT:** Mr. Brugnara, the floor is yours.

13           **MR. BRUGNARA:** Thank you, your Honor.

14                           **CROSS EXAMINATION**

15 **BY MR. BRUGNARA::**

16 **Q** Hello, Ms. Long.

17 **A** Hello.

18 **Q** So, Ms. Long, I listened to your testimony and --

19           **THE COURT:** No speeches. Just ask questions.

20 **BY MR. BRUGNARA:**

21 **Q** Ms. Long, are you familiar with a lawsuit in the Southern  
22 District of New York Federal Court ongoing right now, Maibaum  
23 versus Long?

24 **A** Yes.

25 **Q** Maibaum versus Littlejohn?

1 A Yes.

2 Q Are you Long/Littlejohn --

3 A Yes.

4 Q -- in that lawsuit?

5 Ms. Long, is the painting that you were trying to sell --  
6 and I'm going to qualify the Brugnara Properties/Luke Brugnara,  
7 we'll just say "me" or "Brugnara," okay, for the --

8 MS. HARRIS: Your Honor, I'm going to object to that.

9 THE COURT: Sustained.

10 BY MR. BRUGNARA:

11 Q Was the painting that you were selling to -- I'm going to  
12 call it "Brugnara" -- Brugnara, was one of them a Luks called  
13 Portrait of Gertrude Vanderbilt Whitney?

14 A Yes.

15 Q Okay. And do you -- do you affirm that that's one of the  
16 paintings whereas you're suing Mr. Maibaum on a counterclaim in  
17 the Maibaum versus Long/Maibaum versus Littlejohn lawsuit  
18 whereas you're filing a counterclaim against Mr. Maibaum?

19 A No, that's not it at all.

20 Q That's not?

21 A No.

22 Q Do you -- are you aware that the Federal District Court of  
23 New York has a counterclaim whereas you're making a  
24 counterclaim against Mr. Long [sic] under the penalty of  
25 perjury and have filed documents with the Federal Court of New

1 York --

2 **MS. HARRIS:** Objection, your Honor.

3 **BY MR. BRUGNARA:**

4 **Q** -- regarding the Portrait of Gertrude Vanderbilt Whitney  
5 by George Luks?

6 **MS. HARRIS:** Objection, your Honor. That assumes  
7 facts not in evidence.

8 **THE COURT:** Sustained.

9 **BY MR. BRUGNARA:**

10 **Q** Ms. Long, do you remember writing a reply to the complaint  
11 from Mr. Maibaum that during the summer of 2013 --

12 **MS. HARRIS:** Objection, your Honor.

13 **BY MR. BRUGNARA:**

14 **Q** Ms. Littlejohn --

15 **THE COURT:** Wait, wait. I'm sorry.

16 **MS. HARRIS:** Objection, your Honor.

17 **THE COURT:** What's the objection?

18 **MS. HARRIS:** Hearsay.

19 **MR. BRUGNARA:** Your Honor, you already said this --  
20 this lawsuit is admitted on the in limine motions. We talked  
21 about it for a half hour.

22 **THE COURT:** No. I said things that were otherwise  
23 admissible could come in about this.

24 **MR. BRUGNARA:** And the art in this case you said, not  
25 the art not in this case.

1           **THE COURT:** The art in this case. So what -- so what  
2 is the point you're trying to get at?

3           **MR. BRUGNARA:** The point is --

4           **THE COURT:** What paragraph are you looking at in the  
5 counterclaim?

6           **MR. BRUGNARA:** I am looking at the exact one we  
7 looked at in the in limine, 17. Page 17, No. 17.

8           **THE COURT:** 17, No. 17.

9           **MR. BRUGNARA:** It says, "During the" --

10          **THE COURT:** Wait, wait, wait, wait. Let me read it  
11 again to myself. Did I read this out loud the other day?

12          **MR. BRUGNARA:** Yes.

13          **THE COURT:** Just a minute.

14          (Brief pause.)

15          **THE COURT:** So here is what I -- I'm going to try  
16 to -- to make this go smoothly, Ms. Long.

17          I have before me the counterclaim. I don't think this is  
18 under penalty of perjury.

19          **MS. HARRIS:** It is not.

20          **THE COURT:** I don't know where you got that idea.

21          **MR. BRUGNARA:** Your Honor, this is filed --

22          **THE COURT:** This is not --

23          **MR. BRUGNARA:** This is Rule -- Federal Rule -- this  
24 is civil court that I'm familiar with. It's Federal Rule 106,  
25 and it -- and whoever --

1           **THE COURT:** Show it to me right now where it's under  
2 oath.

3           **MR. BRUGNARA:** Civil, Civil Rule --

4           **THE COURT:** Show me where it's under oath.

5           **MR. BRUGNARA:** 106.

6           **THE COURT:** It's not.

7           **MR. BRUGNARA:** Okay. Your Honor --

8           **THE COURT:** The jury will disregard the comments that  
9 Mr. Brugnara made about things under penalty of perjury. I've  
10 got the counterclaim right here. It's signed by the lawyer,  
11 and it's not signed by her and it's not under oath.

12           **MR. BRUGNARA:** Okay. Your Honor, Federal Rule 106 is  
13 where an attorney will be disbarred if they file a frivolous  
14 lawsuit with a federal court in the jurisdiction of the federal  
15 district courts and civil courts.

16           So, I guess, assuming this attorney is prepared to be  
17 disbarred, lying on behalf of Mrs. Long -- or Ms. Long.

18           **MS. HARRIS:** Your Honor --

19           **THE COURT:** Everything that Mr. Brugnara said is  
20 incorrect. It is not the law. He doesn't know what he's  
21 talking about. Disregard it.

22           Now, I'm going to let you refer to Paragraph 17 --

23           **MR. BRUGNARA:** Okay.

24           **THE COURT:** -- but --

25

1 **BY MR. BRUGNARA:**

2 **Q** So Paragraph --

3 **THE COURT:** Just a minute. I'm going to -- I'm going  
4 to assist here. I'm going to read what your lawyer said in the  
5 case in New York, all right, in what's called a counterclaim.  
6 And it does mention Portrait of Gertrude Vanderbilt Whitney, so  
7 pay attention.

8 Paragraph 17:

9 "During the summer of 2013, Ms. Littlejohn  
10 offered the Prenderghast and Luks Portrait of  
11 Gertrude Vanderbilt Whitney to a number of auction  
12 houses for possible sale at auction. She learned  
13 from the auction houses that both paintings had  
14 previously been offered to the auction houses. The  
15 mere fact that a work of art is offered to numerous  
16 potential buyers or auction houses can decrease the  
17 market value for the work of art. The auction houses  
18 had also concluded that the paintings had been  
19 damaged and heavily restored and rejected both for  
20 inclusion in any auctions.

21 "In addition, Ms. Littlejohn had a restorer  
22 examine the Luks --

23 **MS. HARRIS:** Your Honor --

24 **THE COURT:** (Reading)

25 "-- Feeding the Chickens" -- just a minute --

1 "and he informed Ms. Littlejohn that it is not  
2 authentic."

3 All right. What is your objection, Ms. Harris?

4 **MS. HARRIS:** That is not in the case --

5 **THE COURT:** I understand that. But I'm trying to  
6 move this along. There was a reference to Vanderbilt.

7 All right. Did you hear the reference to Vanderbilt?

8 **THE WITNESS:** Yeah, but I had never read that.

9 **THE COURT:** So you haven't read this document?

10 **THE WITNESS:** No.

11 **THE COURT:** All right.

12 **MR. BRUGNARA:** Your Honor.

13 **BY MR. BRUGNARA:**

14 **Q** So, Ms. Littlejohn, you testified earlier today that, in  
15 fact, the Luks -- you testified today, Ms. Littlejohn, that the  
16 Luks -- I want to use the exact quote from your email, which  
17 you've already affirmed is in evidence right now. It's  
18 entitled "de Kooning, Picasso, Luks" is the heading.

19 It says:

20 "No auctions or dealers have tried to obtain  
21 it" -- excuse me.

22 "No one but auctions or dealers have tried to  
23 obtain it. Just to try by the auction house to  
24 obtain it."

25 And you sent that email to me regarding the George Luks'



1 Portrait of Gertrude Vanderbilt Whitney. Again, I'll repeat  
2 that:

3 "Just to try by the auction house to obtain it."

4 **THE COURT:** Show Ms. Harris what you're referring to.

5 **MS. HARRIS:** What exhibit number is this?

6 (Whereupon, document was shown to counsel.)

7 **BY MR. BRUGNARA:**

8 **Q** And --

9 **THE COURT:** And the exhibit number is what? So we  
10 can keep straight what the exhibit number is you're reading  
11 from.

12 **MR. BRUGNARA:** Your Honor, can I put this on the  
13 screen for the jury to see?

14 **THE COURT:** No, you can't. I want to know the  
15 exhibit number first.

16 **MR. KINGSLEY:** It's on the bottom right of the page.  
17 Exhibit 58.

18 **THE COURT:** 58.

19 **BY MR. BRUGNARA:**

20 **Q** On Exhibit No. 58 --

21 **THE COURT:** It is in evidence. All right. You may  
22 use -- you can put it on the screen, if it's in evidence.

23 **MR. BRUGNARA:** Okay.

24 (Document displayed)

25 **MS. HARRIS:** Your Honor --

1           **MR. KINGSLEY:** He's got his notes all over it.

2           **THE COURT:** You can't put your -- your propaganda on  
3 there. That's not right.

4           **MR. BRUGNARA:** That -- that's an unfair prejudicial  
5 comment, "propaganda." There is no propaganda.

6           **THE COURT:** Well, your -- your comments to yourself  
7 that you're trying to get -- lay before the jury through the  
8 Elmo are not proper.

9           **MR. BRUGNARA:** Okay.

10          **THE COURT:** So you -- you can use the official  
11 exhibit.

12          **MR. BRUGNARA:** Can I have a copy of the official  
13 exhibit?

14          **THE COURT:** The jury will disregard my "propaganda"  
15 comment. Please don't hold that against Mr. Brugnara.

16          Can we get a clean copy? Will the Government help me  
17 here?

18          **MS. HARRIS:** Yes. This is the original Exhibit 58.

19          (Document tendered to the defendant.)

20          **THE COURT:** All right. That's the one we ought to be  
21 using.

22          (Document displayed)

23          **MR. BRUGNARA:** Can you -- can we highlight --

24          **THE COURT:** No. You can't highlight on an Elmo.

25          **MR. BRUGNARA:** All right.

1 **BY MR. BRUGNARA:**

2 **Q** It's pretty self-explanatory. Doesn't need a lot of  
3 explanation here.

4 You -- Ms. Long, isn't it true, were trying to advance to  
5 me a painting that you testified that you invested \$350,000  
6 into and then tried in vain to get the auction houses to sell  
7 it to recover your losses after you found out that it was  
8 damaged and heavily restored, and, in fact, tried to sell it to  
9 me for \$450,000 and told me that, in fact, the auction houses  
10 not only didn't reject it, but they actually wanted it?

11 Is that -- is that the truth, Ms. Long? Is that the  
12 truth, that the auction houses wanted it?

13 **MS. HARRIS:** Your Honor, I'm going to object --

14 **A** The way that --

15 **THE COURT:** Wait, wait, wait, wait. One moment.  
16 What's the objection?

17 **MS. HARRIS:** Compound. Vague.

18 **THE COURT:** Sustained on grounds of compound.

19 **BY MR. BRUGNARA:**

20 **Q** Ms. Long, did the auction houses want the George Luks  
21 painting in their auction?

22 **A** Yes.

23 **Q** Really? Well, I guess your attorney --

24 **MS. HARRIS:** Your Honor --

25 **Q** -- will be disbarred in -- in New York.

1           **THE COURT:** All right. So the --

2           **MS. HARRIS:** Your Honor, objection. I move to  
3 strike.

4           **THE COURT:** The comments will be stricken. The jury  
5 will disregard about disbaring somebody in New York.

6           **MR. BRUGNARA:** Okay.

7 **BY MR. BRUGNARA:**

8 **Q** So Ms. Long --

9           **THE COURT:** Disregard the comment "Really?"

10 **BY MR. BRUGNARA::**

11 **Q** Ms. Long, you're saying that what your attorney filed in  
12 Federal Court --

13           **THE COURT:** She said she did not read the document.

14 **BY MR. BRUGNARA::**

15 **Q** -- last month --

16           **THE COURT:** She said she did not read the document.  
17 It's not an adopted -- she has not adopted it. You may not  
18 refer to it.

19           **MR. BRUGNARA:** You -- you're inferring adoption from  
20 reading it?

21           **THE COURT:** She said --

22           **MR. BRUGNARA:** Your Honor, you are --

23           **THE COURT:** -- she did not read the document.

24           **MR. BRUGNARA:** Your Honor, you are protecting the  
25 witness, and this is prejudicial to me.

1           **MS. HARRIS:** For failing to --

2           **MR. BRUGNARA:** First it's "propaganda." Now  
3 you're -- now you're not even allowing me to cross-examine her.

4           **THE COURT:** No. She said she had not read the  
5 document. Is that true? I don't know.

6           **MR. BRUGNARA:** Okay. Well, your Honor -- your Honor,  
7 I would like to do a 17(a) subpoena right now for her attorney  
8 and bring them in here on an express flight from New York. And  
9 I bet you everything I have in the planet when we sit that  
10 attorney down, he will impeach what she said.

11           **THE COURT:** You know what --

12           **MR. BRUGNARA:** And that pretty much is the case in a  
13 nutshell. She's a liar.

14           **THE COURT:** No.

15           **MR. BRUGNARA:** And I have got -- I have 100 other  
16 here. Shall we start -- let's forget about that. I --

17           **THE COURT:** I have -- I have a proposal for you.

18           **MR. BRUGNARA:** I have a good one. I have a good one.  
19 I have a good one here. Let's start with another good one.

20           **THE COURT:** No.

21 **BY MR. BRUGNARA:**

22 **Q** Okay. Ms. Long --

23           **THE COURT:** Just a minute.

24           **MS. HARRIS:** Your Honor --

25           **THE COURT:** Mr. Brugnara, please. We have already

1 read to the jury. I read myself the paragraphs you wanted read  
2 yesterday, and -- before I realized today that she had never  
3 seen the document, you've already gotten the benefit of it.

4 I will let you continue to make whatever point because I  
5 read it to the jury myself. The jury now understands that she  
6 didn't read the document herself and that her lawyer made these  
7 statements on her behalf from New York.

8 **BY MR. BRUGNARA:**

9 **Q** Okay. Ms. Long --

10 **THE COURT:** That's good enough. That's the best you  
11 could ever possibly get out of this situation.

12 **BY MR. BRUGNARA:**

13 **Q** Ms. Littlejohn --

14 **MR. BRUGNARA:** No, it's not, because I would like her  
15 to answer these questions.

16 **BY MR. BRUGNARA:**

17 **Q** Ms. Littlejohn, are you saying in this courtroom today  
18 under the penalty of perjury that your attorney, Mister -- who  
19 is your attorney, Ms. Long, in this -- in this cross-complaint?  
20 Who is your attorney, Ms. Long?

21 **A** Phil Patterson.

22 **Q** So are you telling me that Mr. Phil Patterson, Esq.  
23 misrepresented your statements to a federal district sitting  
24 judge in the state of New York?

25 **MS. HARRIS:** Your Honor, I'm going to object to this.

1           **THE COURT:** I'm going to sustain the objection. It's  
2 argumentative.

3           **MR. BRUGNARA:** It's not argumentative. Because --

4           **THE COURT:** Yes.

5           **MR. BRUGNARA:** -- it goes to truthfulness of the  
6 witness, and that's what this entire case is about.

7           **MS. HARRIS:** Your Honor --

8           **THE COURT:** No.

9           **MR. BRUGNARA:** If you believe her truthfulness or  
10 not. And you've already put that on the record for 11 months.  
11 It goes to truthfulness.

12           **MS. HARRIS:** Your Honor --

13           **MR. BRUGNARA:** And -- and -- and --

14           **THE COURT:** There are other ways to get at --

15           **MR. BRUGNARA:** -- and -- and --

16           **THE COURT:** -- credibility of the witness other than  
17 she has said that she did not read the document.

18           **MR. BRUGNARA:** Credibility of the witness,  
19 truthfulness and character. Credibility of the witness.

20           **THE COURT:** That's -- that's worthwhile pursuing, but  
21 not the way you're doing it.

22           **MR. BRUGNARA:** Okay.

23 **BY MR. BRUGNARA:**

24 **Q** Ms. Littlejohn, how did your attorney, Mr. Patterson,  
25 contrive these lies in this district court filing if you didn't

1 give him the information to write the document?

2           **MS. HARRIS:** Your Honor, I will object. It's  
3 argumentative.

4           **THE COURT:** It is. It is.

5 **BY MR. BRUGNARA:**

6 **Q** Okay. Ms. Littlejohn --

7           **THE COURT:** Why don't you -- can I --

8 **BY MR. BRUGNARA:**

9 **Q** Is the painting by George Luks heavily damaged and heavily  
10 restored?

11 **A** It has some restoration in the black area, not in the  
12 figure of --

13 **Q** Ms. Long --

14 **A** -- Gertrude Vanderbilt Whitney.

15 **Q** -- why didn't you disclose that to Luke Brugnara?

16 **A** Because we never got anywhere to discuss anything, the way  
17 it was.

18 **Q** Why --

19 **A** You avoided anything.

20 **Q** So you agree there was no contract?

21           **MS. HARRIS:** Your Honor, I'm going to object. That  
22 calls for a legal conclusion.

23 **BY MR. BRUGNARA:**

24 **Q** Ms. Littlejohn, do you --

25           **MR. BRUGNARA:** Are you trying to say there was no



1 contract, your Honor?

2 MS. HARRIS: Your Honor --

3 THE COURT: Just a second.

4 MR. BRUGNARA: She just said we got nowhere. I am --

5 BY MR. BRUGNARA:

6 Q Can you clarify what "we got nowhere means" --

7 MS. HARRIS: Your Honor --

8 BY MR. BRUGNARA:

9 Q -- Ms. Littlejohn?

10 MS. HARRIS: -- there is no question pending.

11 THE COURT: Just a minute.

12 BY MR. BRUGNARA:

13 Q Can you clarify what you mean by "we didn't get anywhere"?

14 MS. HARRIS: Your Honor --

15 BY MR. BRUGNARA:

16 Q I mean, we're not talking about traveling. You're talking  
17 about a metaphor --

18 THE COURT: Mr. Brugnara --

19 BY MR. BRUGNARA:

20 Q -- for no transaction, correct?

21 MS. HARRIS: Your Honor --

22 THE COURT: The jury will disregard this argument. I  
23 told you a moment ago, a few hours ago, the Government does not  
24 have to prove there is any contract. That's not part of a wire  
25 fraud case.

1           **MR. BRUGNARA:** Your Honor, you've already ruled on  
2 the motion to a limine in this court that whether or not there  
3 is a contract is material to this case. It goes to state of  
4 mind of both the defendant and -- excuse me, the accused and --  
5 and -- and the defendant in this case, and you already ruled --

6           **THE COURT:** I ask you, please, when I am admonishing  
7 the jury, please don't interrupt me. I lost my train of  
8 thought.

9           **MR. BRUGNARA:** Okay. I just want to get --

10          **THE COURT:** Wait a minute. Wait a minute. I'm going  
11 to explain something to the jury, and this is also the ruling  
12 on this evidentiary point.

13          The term -- the give-and-take that happened between these  
14 two people is important because that's part of the essence of  
15 what the Government is trying to prove or not prove and what  
16 Mr. Brugnara is trying to prove or not prove. That's all fair  
17 game. I understand that.

18          But in a wire fraud case, in a mail fraud case, nobody has  
19 to prove that there was or was not a contract. This is not a  
20 breach of contract case. This is an allegation by the  
21 Government that Mr. Brugnara made false statements or omissions  
22 in order to get Ms. Long and, I guess, her partner to part with  
23 valuable property.

24          **MR. BRUGNARA:** Your Honor, you're putting a defense.  
25 And the fact of the matter is, your Honor, the defense goes to

1 state of mind, because there cannot be fraud unless I intended  
2 to defraud Ms. Long. The key sole element of fraud is my  
3 intent to steal from that woman.

4 **THE COURT:** All right.

5 **MR. BRUGNARA:** So --

6 **THE COURT:** This -- you don't get to admonish the  
7 jury. I get to. So you have to wait --

8 **MR. BRUGNARA:** Okay. Can I finish --

9 **THE COURT:** -- for your closing argument --

10 **MR. BRUGNARA:** Can I finish?

11 **THE COURT:** -- and then you can make your closing  
12 argument.

13 **MR. BRUGNARA:** Okay. Your Honor, I would like to  
14 finish my questions, too, about the --

15 **THE COURT:** Just a moment. But you injected such  
16 erroneous things in the presence of the jury --

17 **MR. BRUGNARA:** That's not erroneous. Are you saying  
18 that -- that -- that fraud, the element of fraud is not my  
19 intent?

20 **THE COURT:** Please, Mr. Brugnara. I'm explaining to  
21 the jury.

22 So contract or not is not a requirement. But the terms  
23 and conditions of what was discussed between the two of them,  
24 of course, that's relevant.

25 And it does -- and Mr. Brugnara is correct. His state of

1 mind is a very important issue in this case, and the jury  
2 instructions will make that very clear.

3 All right. So if you don't have any more questions,  
4 Mr. Brugnara, I'm going to bring it to a close.

5 **MR. BRUGNARA:** I do, your Honor.

6 **THE COURT:** All right. So if you have more  
7 questions, let's -- let's go to them. But I --

8 **MR. BRUGNARA:** I just -- I just want -- I just want  
9 your Honor to admonish the FBI agent for laughing and  
10 disrespecting the Court and the integrity of the Court.  
11 Mr. Desor, not surprisingly.

12 **THE COURT:** All right. I'm not going to do that  
13 right now.

14 **MR. BRUGNARA:** Okay. So --

15 **THE COURT:** Let's go -- let's move on.

16 **MR. BRUGNARA:** I'll -- I'll repeat the question.

17 **BY MR. BRUGNARA:**

18 **Q** Is the George Luks painting that you tried to sell to  
19 Brugnara heavily damaged and heavily restored?

20 **A** No.

21 **Q** As to --

22 **A** It had -- some -- someone put their foot through one side  
23 of the very dark part, and it was restored.

24 **Q** Ms. Long, that's a "yes" or "no" question, and you just  
25 said "no" --

1 A I just told you.

2 Q -- and then you said "yes."

3 Ms. Long --

4 A You don't --

5 Q -- did you disclose to --

6 A You said "heavily."

7 MS. HARRIS: Your Honor, please.

8 BY MR. BRUGNARA:

9 Q -- Mr. Brugnara that the painting --

10 (Unreportable cross talk.)

11 MR. BRUGNARA: Your Honor, it's a "yes" or "no"  
12 question.

13 THE COURT: No, it wasn't. She answered it properly.

14 MR. BRUGNARA: Okay. So -- so --

15 THE COURT: Go to your next question.

16 BY MR. BRUGNARA:

17 Q So in your expertise as an art dealer, if somebody puts  
18 their foot through a painting, is that not a heavily restored  
19 painting?

20 A Nobody jumped on it.

21 Q How do you know that, Ms. Long? You said someone put  
22 their foot through it. So how do you know if somebody put  
23 their foot through it unless you actually saw them put their  
24 foot through it?

25 A They were hanging the picture and it fell --

1 Q Okay. That's not --

2 A -- while they were hanging it.

3 Q That's not someone putting their foot through it.

4 MS. HARRIS: Your Honor, I'm going to ask  
5 Mr. Brugnara --

6 MR. BRUGNARA: I'm trying to have her qualify what  
7 she's saying. I'm impeaching her testimony.

8 THE COURT: Mr. Brugnara, it is unfair to the witness  
9 to not let her finish her answer --

10 MR. BRUGNARA: It's unfair for me to be in jail when  
11 I'm innocent, and I have had my liberty seized.

12 No one has accused me of any criminal misconduct for 50  
13 years of my life, except this lady (indicating), I have a right  
14 to impeach her, and I'm going to.

15 MS. HARRIS: Your Honor --

16 MR. BRUGNARA: Or you can let me out on bail and I  
17 will have an attorney do it the right way --

18 THE COURT: Mr. Brugnara --

19 MR. BRUGNARA: -- because I don't prefer doing it  
20 this way.

21 THE COURT: Mr. Brugnara, are you too upset to  
22 continue?

23 MR. BRUGNARA: No, sir. No, I'm not.

24 THE COURT: Then I ask you to behave and -- and to --

25 MR. BRUGNARA: You're protecting the witness, your

1 Honor.

2 THE COURT: I am --

3 MR. BRUGNARA: I'm in jail --

4 THE COURT: I'm allowing --

5 MR. BRUGNARA: -- because of this witness's claims --

6 THE COURT: -- the allowing the witness to answer the  
7 question.

8 MR. BRUGNARA: -- that are false.

9 THE COURT: So have you finished your answer?

10 THE WITNESS: Yes, I did.

11 THE COURT: All right. Next question.

12 BY MR. BRUGNARA:

13 Q Okay. So did you see the person put their foot through  
14 the painting?

15 A No.

16 Q Okay. Why did you say in your testimony under sworn  
17 statement that someone put their foot through the painting?

18 A Because the person I purchased it from told me what  
19 happened.

20 Q Why didn't you tell that to Mr. Brugnara?

21 A Because it was restored.

22 Q Okay. Ms. Long, restored paintings are worth less than  
23 paintings that aren't restored, isn't that correct?

24 A Not if it's not in the image. It was not in the image.

25 Q So, okay. I'm not even going to proceed further on that.

1     **A**     Well, you need to understand what you're asking.

2     **Q**     I don't need to understand. There is no question pending,  
3     Ms. Long.

4             **MR. BRUGNARA:** I call your Honor to Page 20,  
5     Paragraph 28 in the lawsuit.

6             **THE COURT:** Say that again. Page what?

7             **MR. BRUGNARA:** 20, No. 28 in the counterclaim.

8     **BY MR. BRUGNARA:**

9     **Q**     Now, you talk about Mr. Maibaum setting that -- quote,  
10    setting about structuring the deal with the --

11            **MS. HARRIS:** Your Honor, I'm going to object to this.

12    **BY MR. BRUGNARA:**

13    **Q**     -- with the intentional concealment of their  
14    involvement --

15            **THE COURT:** Mr. Brugnara, you cannot use this  
16    document because -- unless you show that she approved of this  
17    particular paragraph. And she has already said she didn't read  
18    the document.

19            **MR. BRUGNARA:** Okay. Well, I'd like -- I'd like to  
20    get an emergency subpoena issued for Mr. Patterson. Absolutely  
21    critical at this point to have him confirm that she -- that  
22    she --

23            **THE COURT:** We'll deal with that later on.

24            **MR. BRUGNARA:** -- affirmed --

25            **THE COURT:** But now we have a witness on the stand.



1           **MR. BRUGNARA:** -- that she affirmed this -- that she  
2 affirmed this document.

3           I -- I don't believe that one of the top attorneys in New  
4 York did not get her affirmation before he filed this and put  
5 his reputation and his law -- his law degree -- or excuse me,  
6 his -- his --

7           **THE COURT:** Please. Just ask the questions you have.

8           **MR. BRUGNARA:** Your Honor, you already said this  
9 was --

10          **THE COURT:** -- and find out what her answers are.

11          **MR. BRUGNARA:** Okay.

12 **BY MR. BRUGNARA:**

13 **Q**     It says, for instance --

14          **THE COURT:** No. Don't say what it says. Just ask --

15          **MR. BRUGNARA:** It says --

16          **THE COURT:** -- a question.

17          **MR. BRUGNARA:** Those are the exact words.

18 **BY MR. BRUGNARA:**

19 **Q**     Ms. Long, it says that Mister --

20          **MS. HARRIS:** Your Honor, I want to object to this.

21 **BY MR. BRUGNARA:**

22 **Q**     -- Mr. Maibaum instructed you --

23          **MS. HARRIS:** Your Honor --

24 **BY MR. BRUGNARA:**

25 **Q**     -- specifically what to say to me in this transaction to

1 conceal --

2 **MS. HARRIS:** Your Honor --

3 **BY MR. BRUGNARA:**

4 **Q** -- intentionally their involvement. Is that true?

5 **MS. HARRIS:** Your Honor, you have already made a  
6 ruling on this. Mr. Brugnara cannot scream at the top of his  
7 lungs.

8 **THE COURT:** Please don't answer the question.

9 **MR. BRUGNARA:** She's interrupting me, your Honor.  
10 She is trying to play judge. Ms. Harris hasn't been appointed  
11 to be a judge. Apparently, they don't think she is qualified  
12 to be a judge and she has been passed over for God knows how  
13 many years. Maybe she should sit down and let the judge be the  
14 judge and she can be the prosecutor.

15 **THE COURT:** The jury will please disregard all of the  
16 comments just made. And let's try to stick to the merits.

17 Here is the problem. I want to -- if this witness had  
18 adopted this document, then she can be cross-examined on it.  
19 But she has not, according to her testimony.

20 And now the general subject matter is something you could  
21 ask about, as long as you don't add -- tie it in to what is  
22 said in this document.

23 **MR. BRUGNARA:** What I'm going to do, your Honor --

24 **THE COURT:** So you -- you can get at this another  
25 way, but --

1           **MR. BRUGNARA:** No.

2           **THE COURT:** -- you just don't -- you just aren't able  
3 to use this document.

4           **MR. BRUGNARA:** What I will do, your Honor, is -- is  
5 we will put this particular document on hold until we have  
6 Mr. Patterson testify that Ms. Long is lying to the Court under  
7 penalty of perjury, and then maybe you'll put her in jail.  
8 Because -- then I'll get back to this document after  
9 Mr. Patterson testifies.

10           **MS. HARRIS:** Your Honor --

11           **MR. BRUGNARA:** Because she said --

12           **THE COURT:** Mr. Brugnara, please.

13           **MR. BRUGNARA:** She said that he's lying, and she --  
14 and she didn't authenticate or adopt this. And I would love to  
15 see what Mr. Patterson says about that.

16           **MS. HARRIS:** Your Honor, I want to ask the Court to  
17 take a five-minute recess so we can cool things down.

18           **THE COURT:** I think we should. I think -- I'm sorry,  
19 ladies and gentlemen.

20           **MR. BRUGNARA:** No, your Honor. I'm -- I'm involved  
21 in cross examination.

22           **THE COURT:** You're -- you are --

23           **MR. BRUGNARA:** And she -- Ms. Harris doesn't control  
24 this courtroom.

25           **THE COURT:** I'm going to --

1           **MR. BRUGNARA:** I'm not using any profanity, your  
2 Honor.

3           **THE COURT:** I'm going to give the jury a five-minute  
4 break.

5           **MR. BRUGNARA:** I'm not doing anything to disrupt the  
6 Court.

7           **THE COURT:** Oh, yes, you are.  
8 Please, everyone, take five minutes in the jury room.

9           **THE CLERK:** All rise.  
10 (Jury exits courtroom at 12:15 p.m.)

11           **THE COURT:** All right. I'm going to ask the witness  
12 to step out in the hallway, too, please.

13           **THE WITNESS:** Is it all right if I leave it here?

14           **THE COURT:** I will watch it for you.

15           **THE WITNESS:** There is nothing in it but my books.  
16 Thanks.

17 (Witness steps out).

18           **THE COURT:** Everyone be seated.  
19 All right. What is the -- what do you need, Ms. Harris?

20           **MS. HARRIS:** Your Honor, this entire proceeding since  
21 Mr. Brugnara has stood up has been highly inappropriate, and  
22 the Court -- I'm asking the Court to admonish Mr. Brugnara and  
23 to cut off his cross examination.

24 He has made ad hominem attacks --

25           **MR. BRUGNARA:** Your Honor. Your Honor. Your Honor.

1           **MS. HARRIS:** -- he has interrupted the Government  
2 when the Government is --

3           **MR. BRUGNARA:** Your Honor.

4           **THE COURT:** Mr. Brugnara.

5           **MS. HARRIS:** -- trying to make a valid objection. He  
6 has impugned the integrity of the witness by calling her a liar  
7 without having questions in front of her.

8           He has --

9           **MR. BRUGNARA:** That's not true. She said  
10 Mr. Patterson didn't adopt that document.

11           **THE COURT:** Stop.

12           **MR. BRUGNARA:** Ms. Harris --

13           **MS. HARRIS:** Your Honor --

14           **MR. BRUGNARA:** -- thinks she can control this Court,  
15 and she's not going to in my case.

16           **MS. HARRIS:** Your Honor, all of the behavior that we  
17 just witnessed here was so inappropriate, and that it happened  
18 in front of a jury. This is becoming an outrageous situation  
19 that this jury should be subjected to the screaming, bullying  
20 and inappropriate behavior.

21           It does not matter that he's acting pro se. He's still  
22 subject to the rules of this court, the Rules of Evidence and  
23 the rules of basic decorum.

24           **THE COURT:** Okay. What do you have to say --

25           **MR. BRUGNARA:** She's not the gatekeeper of

1 Judge Alsup's court, and she -- ever since she has come into  
2 this court, she has been your gatekeeper. And in her very  
3 passive-aggressive way, she's told you what to do.

4 And now she's stepping it up because she realizes her  
5 claimant, her sole claimant in this absurd case, is, in fact, a  
6 liar.

7 She just sat there under penalty of perjury and said an  
8 esteemed member of the New York Bar working on Central Park  
9 in -- in -- in Upper -- the Upper East Side Manhattan is a liar  
10 and that he is basically authenticating and adopting her  
11 statements to him as fact and truth to a sitting federal judge  
12 in -- in a federal court in New York.

13 And Ms. Long thinks she can lie at will and bat her  
14 eyelashes at the judge and think it's going to fly.

15 Not with me sitting in Oakland Jail for 11 months. No  
16 way. I have had my liberty seized because of this woman's  
17 false claims. And now she's being proven for the world to see  
18 that she is a liar.

19 And this is just the tip of the iceberg, man. I've got  
20 500 lies. This is one of 500.

21 **THE COURT:** Well, good.

22 **MR. BRUGNARA:** And you said it yourself. You may  
23 blow her up the water so far, were your exact words, she may  
24 have fins.

25 This is one of 500, man. I received --

1           **THE COURT:** I'm glad you got some more because this  
2 one is at an end.

3           **MR. BRUGNARA:** It is, because --

4           **THE COURT:** No, no.

5           **MR. BRUGNARA:** Your Honor --

6           **THE COURT:** We're not going to pursue this anymore.  
7 I'm going to make a ruling now.

8           **MR. BRUGNARA:** Fine.

9           **THE COURT:** All right. I want to say something.

10           It is true that earlier in the case -- I want to start  
11 with a fundamental proposition. The fact that if -- if it were  
12 true that she was trying to defraud you, it's not a defense to  
13 you trying to defraud her. Her fraud has -- is not a defense  
14 to your fraud, if it's proven by the --

15           **MR. BRUGNARA:** Your Honor, it's a subjective --

16           **THE COURT:** Wait.

17           **MR. BRUGNARA:** But fraud is subjective based upon the  
18 intent --

19           **THE COURT:** Mr. Brugnara.

20           **MR. BRUGNARA:** -- in this case.

21           And you said it goes to the credibility of her versus the  
22 credibility of --

23           **THE COURT:** If you -- if you don't stop, I'm going to  
24 rule that your cross examination is at an end. Now, I don't  
25 want to do that, but you are making this impossible.

1 Here is the -- I'm going to get -- here is my ruling.  
2 Fraud is not a defense to fraud, number one.

3 Number two, I had earlier said that you could use that  
4 lawsuit insofar as it dealt with this, the very pieces of art  
5 in question because it might -- not because it would show fraud  
6 as a defense, but because it might shed light on the  
7 credibility of the actual words that were used between the two  
8 of you and her credibility on the things that do count in this  
9 lawsuit.

10 **MR. BRUGNARA:** That's correct. That's correct  
11 exactly what --

12 **THE COURT:** I'm not changing that ruling.

13 **MR. BRUGNARA:** Thank you. Thank you, God.

14 **THE COURT:** Here is the ruling. You are not going to  
15 be allowed to say one more word to her about that lawsuit.

16 **MR. BRUGNARA:** Until Mr. Patterson impeaches her.

17 **THE COURT:** No, no. That's all out now because of  
18 your gross misbehavior in the courtroom, your abuse under  
19 Rule 403. It is so clear to me that you are abusing the  
20 privilege of being able to examine her on this lawsuit that  
21 it's out now.

22 **MR. BRUGNARA:** Your Honor, she lied on -- on the  
23 first statement that she said --

24 **THE COURT:** It's out.

25 **MR. BRUGNARA:** -- that I didn't adopt those



1 statements. I never said that to my attorney.

2 And you said, your exact words: This is your playbook for  
3 the trial, Mr. Brugnara. You said that two days ago.

4 **THE COURT:** No, I didn't. I -- I don't remember what  
5 I said.

6 **MR. BRUGNARA:** And I --

7 **THE COURT:** But if I said it, I'm taking it back.

8 **MR. BRUGNARA:** But -- but --

9 **THE COURT:** I'm taking it back.

10 **MR. BRUGNARA:** Well, we all know --

11 **THE COURT:** You've got 499 other lies. You'll have  
12 to go to one of them.

13 **MR. BRUGNARA:** But, your Honor, no, because in that  
14 particular lawsuit she states exactly what you said. The exact  
15 pieces in this case are worth nothing --

16 **THE COURT:** No, she didn't.

17 **MR. BRUGNARA:** -- and it --

18 **THE COURT:** I've read it.

19 **MR. BRUGNARA:** They're --

20 **THE COURT:** I've read it. I've read it.

21 **MR. BRUGNARA:** The attorney --

22 **THE COURT:** If everything she said was true, it would  
23 not be a defense for your case.

24 **MR. BRUGNARA:** It would be a defense to the extent  
25 that it shows that the subjective viewpoints of what she says

1 of -- of conversations that occurred between her and I are --

2           **THE COURT:** I can't imagine a single conversation  
3 that she had that would get you off of this hook. The evidence  
4 is overwhelming that you committed fraud against this woman.

5           **MR. BRUGNARA:** Okay. You know, you -- there should  
6 be a mistrial. You -- you're making statements that are  
7 completely prejudicial.

8           **THE COURT:** Well, what is it?

9           **MR. BRUGNARA:** You haven't even heard --

10          **THE COURT:** What is it?

11          **MR. BRUGNARA:** -- my defense yet.

12          **THE COURT:** I have heard --

13          **MR. BRUGNARA:** Oh, my God, you just --

14          **THE COURT:** I have heard it.

15          **MR. BRUGNARA:** You just convicted me. I can't  
16 believe this.

17          **THE COURT:** I have heard it in the Form 12 hearing.

18          **MR. BRUGNARA:** In the Form 12 we haven't presented  
19 any witnesses.

20          **THE COURT:** All right. You testified.

21 All right. I'm going to rule -- I'm sticking by my  
22 ruling. You're not going to be allowed to mention this lawsuit  
23 one more time. Period.

24          **MR. BRUGNARA:** Until we have Mr. Patterson --

25          **THE COURT:** No. He's not coming either. It's out of

1 the case. It's gone. It's gone on account of 403 and Luke  
2 Brugnara and the way he misbehaves when he gets --

3 **MR. BRUGNARA:** You can't -- you can't foreclose my  
4 defense --

5 **THE COURT:** Then take it to the Ninth Circuit.

6 **MR. BRUGNARA:** You can't foreclose my defense --

7 **THE COURT:** I --

8 **MR. BRUGNARA:** -- if you feel I'm in contempt. They  
9 are two different issues.

10 You say: Oh, you're contemptuous.

11 **THE COURT:** No, no.

12 **MR. BRUGNARA:** That's different than me having my  
13 defense foreclosed on.

14 **THE COURT:** Read Rule 403. Read Rule 403.

15 **MR. BRUGNARA:** You said -- I know what 403 is.

16 **THE COURT:** All right.

17 **MR. BRUGNARA:** I did a good job on --

18 **THE COURT:** The balance -- the balance on prejudice  
19 and the misuse is so heavily in favor of excluding this now --

20 **MR. BRUGNARA:** On the art in question, where she  
21 says --

22 **THE COURT:** Correct.

23 **MR. BRUGNARA:** -- that it was trampled on by  
24 somebody's foot?

25 **THE COURT:** Correct. Correct. Correct. Correct.

1           **MR. BRUGNARA:** And in other --

2           **THE COURT:** Because you could have opened up the  
3 crate and looked at it and said: What's that -- what's that  
4 patch right there?

5           **MR. BRUGNARA:** I didn't look -- I didn't touch  
6 anything.

7           **THE COURT:** But that was part of the deal. You just  
8 glommed onto it.

9           Look, it's --

10          **MR. BRUGNARA:** I know -- see, so now you're judging  
11 this case.

12          **THE COURT:** Your point is preserved for appeal. Your  
13 point is preserved for appeal.

14          You're not going to mention this lawsuit again.

15          **MR. BRUGNARA:** Okay. What about --

16          **THE COURT:** If you --

17          **MR. BRUGNARA:** -- the fact that it says they engaged  
18 in fraudulent conduct against me by concealing -- intentionally  
19 concealing their -- the involvement of Maibaum and Long.  
20 That's an absolute defense to this.

21          **THE COURT:** No, it's not.

22          **MR. BRUGNARA:** They engaged in an intentional --

23          **THE COURT:** It won't help you at all.

24          **MR. BRUGNARA:** -- fraudulent activity --

25          **THE COURT:** It -- it --

1           **MR. BRUGNARA:** -- to conceal the facts of the art in  
2 this case against me.

3           **THE COURT:** Whatever value there is there is so slim  
4 that compared to the abuse that you would make out of it here  
5 in the courtroom and the confusion that you would throw into it  
6 and the -- the false statements that you would lay before the  
7 jury, no.

8           **MR. BRUGNARA:** You're making --

9           **THE COURT:** Not going to --

10          **MR. BRUGNARA:** -- presumptive comments. What false  
11 statements have I made?

12          **THE COURT:** Many. Many. Many.

13          **MR. BRUGNARA:** Name one right now.

14          **THE COURT:** Like -- like the one said that she has  
15 sworn to it under oath. That's not true.

16          **MR. BRUGNARA:** She has sworn to that under oath?

17          **THE COURT:** You had said she had sworn to the  
18 counterclaim under oath. Not true.

19          **MR. BRUGNARA:** Well, it was advanced to a federal  
20 sitting judge --

21          **THE COURT:** That's different.

22          **MR. BRUGNARA:** -- in a U.S. District Court.

23          **THE COURT:** That's much different.

24          See. See, you just lie to that jury over there. You told  
25 them that she -- that's not a possible good faith basis that

1 you could have had for making that statement. You just -- no.

2 This -- this lawsuit is -- I'm not saying you can't --

3 whatever -- I've already let it in evidence a little bit

4 earlier. I read from parts of it. That part, you can make

5 your arguments in the closing argument. But we're not going to

6 bring it up again, the rest of the -- the rest of the evidence.

7 It's out of the case.

8 **MS. HARRIS:** Your Honor, I would like the record to  
9 reflect that Mr. Brugnara has been screaming. He has been  
10 interrupting people. He has been bullying the Government, the  
11 Court and the witnesses.

12 **MR. BRUGNARA:** And I --

13 **MS. HARRIS:** And I would --

14 **MR. BRUGNARA:** -- would like the record to reflect  
15 that Ms. Harris in her own way is doing the exact same thing.

16 **THE COURT:** You're doing it again.

17 **MR. BRUGNARA:** She's interrupting me constantly, from  
18 the opening all the way to where we're at today.

19 **THE COURT:** Mr. Brugnara --

20 **MR. BRUGNARA:** She's, by her own style, bullying the  
21 Court in her passive-aggressive style.

22 And, in fact, she's prohibiting me from putting on my  
23 defense, which I'm legally entitled to do under the  
24 Constitution of the United States as an innocent defendant, to  
25 extract myself from this horrible situation. I'm entitled to

1 have a defense. This is not China or North Korea.

2           **THE COURT:** Your point is preserved for appeal. If  
3 they think you haven't been provided with every possibility for  
4 a defense, then you'll be -- you'll be vindicated.

5 All right. Here is -- I think you have been given way too  
6 much latitude.

7 All right. Here is the thing. At 1:00 o'clock -- it's  
8 now 12:25. At 1:00 o'clock your examination is going to be  
9 over. So you've got 25 -- 35 --

10           **MR. BRUGNARA:** I can't being foreclosed from cross  
11 examining --

12           **THE COURT:** Yes, you can.

13           **MR. BRUGNARA:** -- 500 impeachment pieces.

14           **THE COURT:** Yes, you can.

15           **MR. BRUGNARA:** She had six, seven hours. You can't  
16 foreclose my --

17           **THE COURT:** Yes, I can.

18           **MR. BRUGNARA:** -- cross examination.

19           **THE COURT:** Here -- here -- I'm going to listen to  
20 what you do in the next 35 minutes. If you make good use of  
21 the time in a way that's not abusive, then you're going to get  
22 more time tomorrow. But if you abuse the next 35 minutes, it's  
23 going to be over. So you make your choice.

24 You know how to behave. I've seen you behave some. You  
25 can do it. If you misbehave, then you're going to -- it's

1 going to just be over at 1:00 o'clock. That's the way it's  
2 going to being from now on.

3 **MR. BRUGNARA:** I disagree --

4 **THE COURT:** And if I get reversed on account of this,  
5 then God bless the Court of Appeals.

6 **MR. BRUGNARA:** I -- there is no doubt. You took my  
7 liberty from me when you shouldn't have 11 months. I should  
8 have been on bail and we would have an attorney doing it the  
9 right way right now. You have orchestrated this venue, and now  
10 you're crying about it. The fact is, I didn't want this venue.  
11 You wanted it.

12 **THE COURT:** All right.

13 I'm sorry. Let's bring back the jury. Bring back the  
14 witness. 1:00 o'clock.

15 No more references to that lawsuit.

16 **MR. BRUGNARA:** I won't discuss it. I keep my word.  
17 People believe in what's coming out of my mouth. That's why  
18 they lent me a billion dollars. I'm a man of my word.

19 I don't know why you're protecting her, though. It's  
20 inexplicable to me.

21 I guess if she bats her eyelashes at you a few times, you  
22 know, that's what works. Because I can't -- I can't think of  
23 any other explanation.

24 **THE COURT:** Thank you for being supportive.

25 All right. Where is my witness? Come on back up here.



1 (Brief pause.)

2 Ms. Long, are you feeling all right? Are you ill or  
3 anything?

4 **THE WITNESS:** No. I damaged my knee badly.

5 **THE CLERK:** All rise.

6 (Jury enters courtroom at 12:26 p.m.)

7 **THE COURT:** Okay. Welcome back, and everyone be  
8 seated.

9 Remember I told you at the outset of the case about the  
10 difference between what the lawyers say and the parties say  
11 versus evidence. It is very important that you keep that in  
12 mind and remember that what is evidence in the case is what is  
13 said under oath from the witness stand and the exhibits that  
14 get into evidence and that's it. And the things that I say to  
15 you are not evidence. The things that the lawyers say or  
16 Mr. Brugnara says is not evidence. And so there we are.

17 And we're going to continue on until 1:00 o'clock and see  
18 how it goes.

19 **BY MR. BRUGNARA:**

20 **Q** Okay. Ms. Long, do you -- do you remember testifying in  
21 this Court -- in this courtroom in June of 2014?

22 **A** I know I was here. That's all.

23 **Q** Do you remember testifying sitting in that exact seat  
24 testifying under oath under penalty of perjury in this case in  
25 June 2014?

1   **A**     Yes, I remember being here.

2   **Q**     Are you -- are you -- are you on any medication today that  
3 would prevent you from having a cognitive difficulty thinking?

4   **A**     Your rudeness is not helping.

5   **Q**     I'm asking you a simple question. Are you on any  
6 medication that would prohibit you from thinking clearly today  
7 or any time in the past?

8   **A**     I'm not --

9               **MS. HARRIS:** Your Honor --

10   **A**     And I --

11   **BY MR. BRUGNARA:**

12   **Q**     Okay. That's fine.

13   **A**     There is no way to answer any of --

14   **Q**     Let's proceed ahead.

15             Okay. On that --

16               **THE COURT:** Please let her finish your answer. Did  
17 you finish -- what was your answer? I didn't hear it.

18   **A**     It's impossible to answer your questions.

19   **BY MR. BRUGNARA:**

20   **Q**     Okay. Well, that's -- that's a subjective statement.

21             Do you remember saying on that date in June an answer when  
22 you were asked --

23               **THE COURT:** Please read the question exactly and the  
24 answer exactly. It must be exact.

25

1 **BY MR. BRUGNARA:**

2 **Q** (As read)

3 **"QUESTION:** Are you in the business of  
4 selling high value art?"

5 Your answer was:

6 **"ANSWER:** Yes."

7 Do you remember saying that?

8 **A** Yes, I do.

9 **Q** Okay. Ms. Long, you've probably sold 300 pieces of art.  
10 Do you remember saying that?

11 **A** Yes.

12 **MS. HARRIS:** Your Honor, could the Court ask  
13 Mr. Brugnara to refer to the page numbers?

14 **MR. BRUGNARA:** Page 84 of the Form 12 hearing.

15 **BY MR. BRUGNARA:**

16 **Q** And Mr. LeBlanc, he's the gentleman looked like a movie  
17 star, he asked you:

18 **"QUESTION:** In connection with those sales,  
19 how many times have you had a sales contract?"

20 And your answer was:

21 **"ANSWER:** Every time."

22 Do you remember that?

23 **A** No, I really don't.

24 **Q** Okay. Well...

25 I'm going to read to you from Page 84, Line 14 --

1           **THE COURT:** Wait. Let's make sure that the  
2 Government is -- are you at the right spot?

3           **MS. HARRIS:** What page?

4           **MR. BRUGNARA:** "Okay." It says, "Okay."

5           **MS. HARRIS:** Wait. What page and line number?

6           **MR. BRUGNARA:** Page 84. I'm on a time limit here, I  
7 guess, until 1:00. I'm going to -- I'm going to need several  
8 hours on this.

9           **THE COURT:** You've got until 1:00 o'clock.

10          **MR. BRUGNARA:** Well, today you mean?

11          **THE COURT:** Maybe. Maybe this will be it.

12          All right. Ms. Harris, are you there?

13          All right. Go ahead and read it exactly, the question and  
14 then the answer.

15 **BY MR. BRUGNARA:**

16 **Q**       Okay. After the "yes" of the high value of art, it says:

17           **"QUESTION:** Okay. And it sounds like you  
18 said you probably sold over 300 pieces of art.  
19 In connection with those sales, how many times  
20 have you had a sales contract?"

21       Your answer:

22           **"ANSWER:** Quite often. Every time, I mean."

23           **"QUESTION:** Every time," was the question to  
24 you.

25           **"ANSWER:** Yes."

1 That's Page 84, Line 14 to 19.

2 MS. HARRIS: Actually, he didn't finish her answer,  
3 your Honor.

4 THE COURT: You must read the entire answer. You  
5 can't stop short. Please read the entire answer.

6 MR. BRUGNARA: That is the entire answer. "Yes,"  
7 period. The rest of the answer is not relative. This is my --

8 THE COURT: Ms. Harris --

9 BY MR. BRUGNARA:

10 Q The next question is --

11 THE COURT: Wait, wait, wait. If it's in the answer,  
12 Ms. Harris is entitled to have that answer.

13 MR. BRUGNARA: Okay.

14 "ANSWER: Yes. Ordinarily it's really  
15 invoices. It's not contracts under a  
16 particular situation."

17 MS. HARRIS: No. "Unless it's under a particular  
18 situation."

19 BY MR. BRUGNARA:

20 Q Okay. Next -- next question --

21 THE COURT: I would -- I think it should be -- now,  
22 hand it -- one of you hand it to me, because it's now been  
23 butchered up so much I want to read it out loud.

24 (Whereupon, document was tendered to the Court.)

25 MR. BRUGNARA: Okay. I'm going to go on to the next

1 question --

2 **THE COURT:** Wait. Wait. Here we go.

3 **"QUESTION:** Every time?

4 **"ANSWER:** Yes. Ordinarily it's really  
5 invoices. It's not contracts unless it's under  
6 a peculiar situation."

7 All right.

8 **BY MR. BRUGNARA:**

9 **Q** Next question. It says:

10 **"QUESTION:** What date did the art arrive to  
11 his home?"

12 This is on Page 92, Line 16.

13 And you said:

14 **"ANSWER:** The 7th of July."

15 Did the art arrive the 7th of July?

16 **A** No. I was --

17 **Q** Okay. That's fine.

18 And then your next answer was:

19 **"ANSWER:** I can't even remember how long  
20 it's been."

21 **A** Yes.

22 **Q** Okay. Below that you said:

23 **"ANSWER:** Okay" --

24 **THE COURT:** Well, wait, wait, wait. This is not the  
25 proper way to proceed.

1           **THE WITNESS:** Let me -- this is --

2           **THE COURT:** What you have to do is ask --

3           **MR. BRUGNARA:** Okay.

4           **THE COURT:** -- ask the question like: What day did  
5 the art arrive?

6 **BY MR. BRUGNARA:**

7 **Q** And the --

8           **THE COURT:** Wait a minute. I'm going to explain to  
9 you how you do this so we'll save time in the long run.

10          You just -- without regard to the transcript, you say --  
11 you say, "What day did the art arrive?"

12          She then says, "April 7."

13          And you say, "Well, didn't you testify" -- "I'm going to  
14 read what you said before."

15           **MR. BRUGNARA:** Okay.

16           **THE COURT:** And then it comes out it was July 7th,  
17 and then --

18           **MR. BRUGNARA:** Okay.

19           **THE COURT:** -- you made your point.

20           **MR. BRUGNARA:** I understand. And your Honor actually  
21 stepped in and made the next comment, protecting Ms. Long. You  
22 said in the Form 12 hearing --

23           **THE COURT:** What did I say?

24           **MR. BRUGNARA:** Oh, are you referring to that thing  
25 earlier? You said April 7th.

1           So you took the position to correct her and --

2           **THE COURT:**   Okay.   And what --

3           **MR. BRUGNARA:**   -- from impeaching --

4           **THE COURT:**   What did she say they were?

5           **MR. BRUGNARA:**   Well, I don't think that was  
6 appropriate, the Court protecting conflicting testimony under  
7 sworn statements to my detriment.   If it's over money or my  
8 liberties, I don't really care --

9           **THE COURT:**   Well, Mr. Brugnara --

10          **MR. BRUGNARA:**   -- but when I'm sitting in jail, I  
11 really do care.

12          **THE COURT:**   -- while you're educating us, tell --  
13 tell us all what she said.

14          **MR. BRUGNARA:**   I just want to make a record of what's  
15 going on in this court, because I'll probably be dead in a few  
16 months from cancer.

17 **BY MR. BRUGNARA:**

18 **Q**       Okay.   And your answer was:

19           **"ANSWER:**   She says" --

20          **THE COURT:**   I want the jury to know there is no  
21 evidence whatever that Mr. Brugnara has cancer or that he's  
22 about to die in a few months.   That is -- should not have been  
23 said to you and there is no evidence whatever to support that.

24          **MR. BRUGNARA:**   Not yet, ladies and gentlemen of the  
25 jury.   We're going to have about six medical professionals come



1 through here.

2           **THE COURT:** They are not going to come through here.  
3 They're -- they're -- that's a surprise to me.

4           **MR. BRUGNARA:** Well, they are.

5           **THE COURT:** I will -- I will promise you this. If  
6 some doctor is willing to come in here and say he's going to  
7 die in a few months, I will certainly let that be told to you.

8           **MR. BRUGNARA:** Okay. So --

9           **THE COURT:** But, now, what did the witness then say?

10 **BY MR. BRUGNARA:**

11 **Q** The witness then said:

12           **"ANSWER:** Oh, yes, April 7. Thank you."

13 Thanking you, your Honor --

14           **THE COURT:** All right.

15 **BY MR. BRUGNARA:**

16 **Q** -- for helping her out.

17 **A** That's not what he --

18 **Q** And then she sent to say:

19           **"ANSWER:** Well --

20 **A** That's not the whole sentence.

21 **Q** I'm talking, Ms. Long.

22           **"ANSWER:** Well, I have been there so many  
23 times, I didn't even know what day it is."

24           **"QUESTION:** Ms. Long, didn't you testify  
25 approximately two hours ago that you had never

1       been to the house?"

2               **MS. HARRIS:** Your Honor, I'm going to object --

3 **BY MR. BRUGNARA:**

4 **Q**       (Continuing)

5               **"QUESTION:** -- at 224 Sea Cliff Avenue?"

6               **THE COURT:** Just a minute. What's the objection?

7               **MS. HARRIS:** I'm going to object. It misstates her  
8 prior testimony. And I don't know what he's doing with this  
9 transcript. He's not asking questions. He's just reading --

10              **THE COURT:** You can't just read from a transcript and  
11 then -- you first have to do the foundational question.

12              **MR. BRUGNARA:** We have the foundation.

13              **THE COURT:** It's not -- you don't --

14 **BY MR. BRUGNARA:**

15 **Q**       Okay. Ms. Long, Ms. Long, isn't it true that you  
16 testified two hours ago that you've never been to 224 Sea Cliff  
17 before --

18              **THE COURT:** April 7th.

19 **BY MR. BRUGNARA:**

20 **Q**       -- April 7th?

21 **A**       Yes.

22 **Q**       Okay. Ms. Long, why did you testify under sworn testimony  
23 in front of Judge Alsup in this court in June a few weeks  
24 later:

25              **"I've been there so many times, I don't even**

1 know what day it is"?

2 **A** It's -- it's not referring to your address.

3 **Q** Well, what -- what are we talking about? "I have been  
4 there." What does that mean?

5 **A** I mean, your process of the way that you've handled --

6 **Q** Okay.

7 **A** -- people and trying to make --

8 **Q** Let's continue on. Next page.

9 **THE COURT:** No. She -- she gets to answer the  
10 question.

11 **THE WITNESS:** I get to answer.

12 **THE COURT:** Please finish the answer, Ms. Long.

13 **THE WITNESS:** This is what I dealt with the entire  
14 time I've known this man.

15 **MR. BRUGNARA:** Okay.

16 **THE WITNESS:** So it's a very -- you could forget  
17 where you were.

18 **MR. BRUGNARA:** Your Honor, I need that stricken from  
19 the record. It's nonresponsive and I need to continue with the  
20 questioning on the limited time that you've given today.

21 **THE COURT:** The answer will stand.

22 What's your next question?

23 **BY MR. BRUGNARA:**

24 **Q** You -- you were asked a question from the time -- and this  
25 is sworn --

1           **THE COURT:** This is not a proper way to do it.

2   **BY MR. BRUGNARA::**

3   **Q**     You were -- is it true that you answered, when you --

4           **MS. HARRIS:** Your Honor, this is --

5   **BY MR. BRUGNARA:**

6   **Q**     -- when you were asked:

7           **"QUESTION:** When to Mr. Brugnara over the  
8           phone, was it in February or March in 2014?"

9           And your answer was --

10          **MS. HARRIS:** Your Honor. Your Honor.

11   **BY MR. BRUGNARA:**

12   **Q**     (As read)

13          **"ANSWER:** I have no idea."

14          **MS. HARRIS:** Objection.

15   **BY MR. BRUGNARA:**

16   **Q**     (Continuing)

17          **"ANSWER:** You know, I don't even think in  
18          those terms"?

19          **MS. HARRIS:** Your Honor, he cannot just be waving a  
20          transcript around. He needs to lay a foundation and then use  
21          the transcript.

22          Could we have him instructed --

23          **THE COURT:** You can't --

24          **MS. HARRIS:** -- on how to impeach?

25          **THE COURT:** You can't refer to the transcript,

1 period, until after you ask the witness -- I will use this as  
2 an example.

3 You could ask that very same question without referring to  
4 the transcript and say:

5 "When did you have your first telephone call" --

6 **BY MR. BRUGNARA:**

7 **Q** Ms. Long, Ms. Long, how is your cognitive thought  
8 process --

9 **A** Are you finished?

10 **BY MR. BRUGNARA:**

11 **Q** Ms. Long, how is your cognitive --

12 **THE COURT:** I -- I can't even finish --

13 **BY MR. BRUGNARA:**

14 **Q** Ms. Long, Ms. Long --

15 **THE COURT:** -- my comments without being interrupted.

16 **THE WITNESS:** That's what I mean.

17 **BY MR. BRUGNARA:**

18 **Q** Ms. Long, Ms. Long, I have been sitting in jail based upon  
19 your false claim.

20 **MS. HARRIS:** Your Honor, I'm going to object.

21 **A** Because you've stolen something --

22 **BY MR. BRUGNARA:**

23 **Q** Really?

24 **A** -- and will not return it.

25 **Q** So if they find it in some contractor's garage that was

1 working on a site two doors over, then what are you going to  
2 do?

3 MS. HARRIS: Your Honor --

4 BY MR. BRUGNARA:

5 Q -- and what is the judge --

6 MS. HARRIS: Your Honor, your Honor, your Honor.

7 THE COURT: Mr. Brugnara --

8 MR. BRUGNARA: Okay.

9 THE COURT: -- you've got to ask proper questions --

10 MR. BRUGNARA: Okay.

11 THE COURT: -- or I'm going to bring it to an end.

12 BY MR. BRUGNARA:

13 Q Okay. The next is, when you said:

14 "I have no idea, I don't think in those terms,"

15 what do you mean by that?

16 A Because I have an artistic side of the brain. What do you  
17 think?

18 Q So you have a -- so by having an artistic side of the  
19 brain --

20 A Yes.

21 Q -- that means that you don't think mathematically?

22 A You know my -- I mean, I have many clients, many places.  
23 You think I'm thinking of you? Only in horror.

24 Q No. I'm talking about the question that you've sworn  
25 under oath and you answered. They asked you what -- this is a

1 case about specific dates and specific times and specificity --

2 A You made that clear.

3 Q -- and you said you don't think in those terms. You have  
4 an artistic mind.

5 I asked you: So your cognitive thought process is, in  
6 fact, impaired. Isn't that true?

7 A Oh...

8 Q Okay. Ms. Long, you said in testimony two hours ago that  
9 a crew of delivery men delivered the crates to 224 Sea Cliff  
10 Avenue. Is that true?

11 A I don't know what is the question. 224 Sea Cliff Avenue?

12 Q The house in Sea Cliff, you said a crew of delivery men  
13 delivered the crates to --

14 A I did not say "crew."

15 Q -- to 224 Sea Cliff Avenue on April 7. Did you not say  
16 that?

17 A No.

18 Q What did you say?

19 A I said two men --

20 Q Okay. Okay.

21 A -- put the --

22 Q Assuming that's what you said --

23 A -- five crates in your garage.

24 (Unreportable cross talk.)

25 Q You said two men --

1           **MS. HARRIS:** Your Honor, may the witness finish?

2           **THE COURT:** I remember her testimony, and that is  
3 what she said.

4 **BY MR. BRUGNARA:**

5 **Q** Okay. Ms. Long, is your cognitive thought process  
6 impaired?

7 **A** If you insult me one more time, I will just stop.

8 **Q** Okay. Ms. Long, you need to answer the questions,  
9 Ms. Long.

10           **THE COURT:** You've asked that question.

11           **MR. BRUGNARA:** Okay.

12           **THE COURT:** She's answered --

13           **MR. BRUGNARA:** I'm giving her one more chance to  
14 correct herself.

15           **THE COURT:** No. I'm not going to let you do that.

16 **BY MR. BRUGNARA:**

17 **Q** Okay. Ms. Long, are you aware that one man brought in the  
18 crates, not two men? Are you aware of that?

19 **A** That is wrong.

20 **Q** Okay. Well, that's your state of mind.

21 **A** You really think one man can pick up about an eighty, you  
22 know, five --

23 **Q** Okay. Ms. Long, Ms. Long, will it surprise you --

24           **MS. HARRIS:** Your Honor --  
25



1 BY MR. BRUGNARA:

2 Q -- to learn --

3 MS. HARRIS: Your Honor, your Honor, your Honor.

4 BY MR. BRUGNARA:

5 Q -- will it surprise you to learn, Ms. Long, that the next  
6 witness after you is the one man that brought the crates.

7 Ms. Long, you weren't thinking or seeing things properly  
8 on the date of April 7th were you, Ms. Long?

9 A Is that a question?

10 Q What -- were you thinking straight, Ms. Long?

11 MS. HARRIS: Your Honor, I object to this. This is  
12 argumentative. This is harassing and badgering this witness,  
13 and it is not --

14 MR. BRUGNARA: I'm not badgering --

15 MS. HARRIS: -- and it is --

16 MR. BRUGNARA: -- the witness, your Honor.

17 Excuse me. Can you not interrupt me? I didn't interrupt  
18 you.

19 MS. HARRIS: I've got to get my objections on the  
20 record.

21 THE COURT: All right. You don't need to.

22 I'm going to sustain the objection because this has been  
23 asked and answered.

24 MR. BRUGNARA: Okay.

25 THE COURT: You've asked her several times was she

1 thinking straight, was her --

2 MR. BRUGNARA: Okay.

3 THE COURT: -- cognitive abilities --

4 MR. BRUGNARA: So she said one man delivered the  
5 crates and she gave an explanation --

6 THE COURT: Okay. She said two men delivered it.

7 MR. BRUGNARA: Okay.

8 THE COURT: And then you can -- if you feel it's  
9 going to help, you can bring out later that one man brought it,  
10 if that's, in fact, true. I don't know that.

11 BY MR. BRUGNARA:

12 Q Ms. Long --

13 THE COURT: We'll find out from other witnesses, but  
14 we've made that point. Let's move on.

15 BY MR. BRUGNARA:

16 Q Let's move on, Ms. Long.

17 A I would like to finish that question --

18 Q Ms. Long, testified --

19 A -- what it was --

20 THE COURT: Wait, wait, wait.

21 BY MR. BRUGNARA:

22 Q Excuse me. Ms. Long, you gave a statement to the FBI, and  
23 you also testified in your Form 12 hearing under oath in this  
24 Court --

25 THE WITNESS: I'm not going to answer --

1 BY MR. BRUGNARA:

2 Q -- in June 2014 --

3 THE WITNESS: -- insults in between his questions.

4 BY MR. BRUGNARA:

5 Q -- that --

6 THE COURT: I'm sorry?

7 THE WITNESS: He's insulting me before -- while he's  
8 asking me a question, so I can't even understand what he means.

9 THE COURT: Well, all right. Ask a fresh question.  
10 And please, please don't try to upset the witness.

11 MR. BRUGNARA: I'm upset, your Honor. I'm sitting in  
12 jail --

13 THE COURT: I know you are.

14 MR. BRUGNARA: -- based upon what this woman has  
15 perpetuated against me. So I don't have any sympathy for her  
16 at all.

17 THE COURT: But --

18 MR. BRUGNARA: I -- I --

19 THE COURT: -- when you act --

20 MR. BRUGNARA: Okay.

21 THE COURT: -- as your own attorney, you have to --  
22 you have to behave somewhat like an attorney would and be  
23 polite to the witnesses and -- and make your factual points.  
24 And let's -- let's do it in the professional way.

25 MR. BRUGNARA: Okay.

1 BY MR. BRUGNARA:

2 Q Ms. Long, aware that you told the FBI and you also told  
3 this Court in June 2014 that when the art was delivered that  
4 the garage was totally empty?

5 MS. HARRIS: Your Honor, that's not a proper  
6 question.

7 THE COURT: It's not. But you can ask this question.  
8 You can say, when the --

9 MR. BRUGNARA: I -- I know how to ask a question.

10 BY MR. BRUGNARA:

11 Q Was the garage empty, Ms. Long, on April 7th?

12 A Your car was in it and the rest of it was empty.

13 Q Okay. That's not what said to the -- in your testimony  
14 on -- are you correcting the testimony now of --

15 A No. I'm just --

16 Q -- of -- of your Form 12 --

17 A I'm just explaining --

18 Q -- on June 2014?

19 A The whole thing seemed strange --

20 Q Okay.

21 A -- so I thought you were going to --

22 Q Ms. Long --

23 A We were going to continue to move it elsewhere.

24 Q Ms. Long, is your recollection better today in -- in -- in  
25 April 2015, or is your recollection better in June 2014 as to

1 what transpired a month earlier? When is your recollection  
2 better?

3 **A** When -- you said now or when?

4 **Q** Is your recollection of the events that occurred in your  
5 life and in my life --

6 **A** Yes.

7 **Q** -- sharper, more accurate, better today or a year ago?

8 **A** It's been the same.

9 **Q** It's been the same?

10 **A** Uh-huh.

11 **Q** Okay. So --

12 **A** Except I know a lot more.

13 **Q** So -- so how should this Court reconcile the differences  
14 between your testimony --

15 **MS. HARRIS:** Your Honor, objection.

16 **BY MR. BRUGNARA:**

17 **Q** -- if it's the same?

18 **THE COURT:** There is no proof yet that it was  
19 different.

20 **BY MR. BRUGNARA:**

21 **Q** Okay. Well, Ms. Long, in your Form 12 testimony you  
22 stated, in fact, that the garage was, in fact --

23 **THE COURT:** Just read it. Just read it. You may be  
24 right. But I would like for the jury to have the benefit of  
25 the actual question and answer.

1           **MR. BRUGNARA:** All right.

2           **MS. HARRIS:** What page?

3           **MR. BRUGNARA:** It's not a problem.

4           (Brief pause.)

5           **MR. BRUGNARA:** Okay. Page 141, Line 20.

6           **THE COURT:** Okay. Are you there, Ms. Harris?

7           You don't get to put it on the Elmo. Just read it  
8 exactly.

9 **BY MR. BRUGNARA:**

10 **Q**     It says:

11           **"QUESTION:** Did you see them put it in the  
12 garage?"

13           Line 23. Your answer was:

14           **"ANSWER:** Yes."

15           The next question:

16           **"QUESTION:** Did you see -- was the garage  
17 empty at that point?"

18           You said:

19           **"ANSWER:** Yes."

20           The question was:

21           **"QUESTION:** Was it completely empty?"

22           You said:

23           **"ANSWER:** Yes."

24           The question was:

25           **"QUESTION:** Was there nothing in the

1 garage?"

2 You said:

3 "ANSWER: No."

4 "QUESTION: So when all the five crates were  
5 delivered, was the only thing in the garage the  
6 five crates?"

7 And you said:

8 "ANSWER: Yes. That's all that was in it."

9 MS. HARRIS: Actually, your Honor, the rest of the  
10 answer needs to be --

11 BY MR. BRUGNARA:

12 Q (As read)

13 "ANSWER: Yes, that was all that was in it."

14 MS. HARRIS: "But..."

15 BY MR. BRUGNARA:

16 Q (As read)

17 "ANSWER: ...but I was concerned discussing  
18 where we were taking it from there."

19 THE COURT: I'm sorry. Can I -- can I see -- I would  
20 like to see what it is you're trying to get in.

21 MR. BRUGNARA: Well, she's discussing her state of  
22 mind of being worried, but I -- the point I'm trying to make  
23 isn't about her state of mind of her concern, but the fact that  
24 the garage was empty.

25 THE COURT: Well, just a moment.

1 (Whereupon, document was tendered to the Court.)

2 **THE COURT:** It says:

3 **"QUESTION:** Okay. So when all five crates  
4 were delivered, was the only thing in the  
5 garage the five crates?

6 **"ANSWER:** Yes."

7 **MR. BRUGNARA:** Okay. That's --

8 **THE COURT:** Wait. No, no.

9 **MR. BRUGNARA:** That's -- we're not looking for any of  
10 the other information.

11 **THE COURT:** Well, I'm sorry, but --

12 **MR. BRUGNARA:** We're concerned --

13 **THE COURT:** -- the entire answer gets to be read.

14 **MR. BRUGNARA:** Okay. I understand.

15 **THE COURT:** (As read)

16 **"ANSWER:** Yes, that's all I saw in it, but I  
17 was still concerned in discussing where we were  
18 taking it from there, from the men, and -- and  
19 wanted them inside of the house. So I was -- I  
20 mean, I was really worried from that point on."  
21 All right.

22 **MR. BRUGNARA:** Okay.

23 **THE COURT:** So that's the full answer.

24 **MR. BRUGNARA:** Okay. That's the full answer.

25 **THE COURT:** All right.



1 **BY MR. BRUGNARA:**

2 **Q** Okay. Ms. Long, I want you to look at this picture.

3 (Photo tendered to the witness.)

4 **THE COURT:** Is that in evidence?

5 **MS. HARRIS:** No, it is not.

6 **THE WITNESS:** No. It's not real.

7 **THE COURT:** Okay. If you would --

8 **MR. BRUGNARA:** I would like to mark this in  
9 evidence --

10 **THE COURT:** If you can possibly get it into evidence  
11 through her, but I know what picture that is --

12 **BY MR. BRUGNARA:**

13 **Q** Ms. Long --

14 **THE COURT:** -- and I don't think she can put it in  
15 evidence.

16 **BY MR. BRUGNARA:**

17 **Q** Ms. Long, are these the crates that were opened by the FBI  
18 that you saw?

19 **MS. HARRIS:** Your Honor, that's not a proper  
20 question.

21 **A** That's absurd.

22 **MS. HARRIS:** He has laid no foundation for asking her  
23 anything --

24 **BY MR. BRUGNARA:**

25 **Q** Ms. Long --

1           **THE COURT:** Wait, wait. Ask --

2           Ms. Long, do you know -- do you know what is -- from  
3 personal knowledge, what is in that picture?

4           **THE WITNESS:** Yes. It's a setup on purpose to -- for  
5 me just to see a little bit of a corner of one box, and then a  
6 bunch of stuff all thrown in there deliberately to look like I  
7 don't know what I'm talking about.

8           **MR. BRUGNARA:** All right.

9           **THE WITNESS:** But it doesn't show five crates.

10          **MR. BRUGNARA:** Okay.

11          **THE COURT:** All right.

12 **BY MR. BRUGNARA:**

13 **Q**     Ms. Long, are these not the five, but are those two of the  
14 five crates?

15 **A**     I actually can only tell about one.

16 **Q**     Okay. Is that one of the five crates, Ms. Long?

17 **A**     Yes.

18 **Q**     Okay. That's one of the five crates that were delivered.

19          **MR. BRUGNARA:** I'd like to put this into evidence,  
20 your Honor.

21          **MS. HARRIS:** I object, your Honor. It's not --

22          **THE COURT:** It's not -- there is no foundation as to  
23 the date of the photograph or --

24          **MR. BRUGNARA:** Your Honor, this was taken by the FBI.

25          **MS. HARRIS:** Your Honor, Mr. Brugnara is testifying.

1           **THE WITNESS:** No, it wasn't.

2           **THE COURT:** You'll have to put that in in some other  
3 way.

4           **MR. BRUGNARA:** Okay. Okay. We'll put it in through  
5 the FBI then.

6           **THE COURT:** No. You -- you can call -- but she  
7 testified about April 7th. That picture could have been some  
8 other day.

9           **MS. HARRIS:** Your Honor, can you ask Mr. Brugnara to  
10 turn the picture over so that it's not shown to the jury before  
11 it's received into evidence?

12           **THE COURT:** Of course.

13           Are you just laying it there so the jury can see --

14           **MR. BRUGNARA:** I'm not laying anything. And I don't  
15 believe the jury has X-ray vision to see --

16           **THE COURT:** Well, turn it upside down so the jury  
17 does not get tempted to look at it.

18 **BY MR. BRUGNARA:**

19 **Q**       Okay. So you talked about the delivery team and -- and  
20 the Form 12, and you discussed the two delivery men. This is  
21 important: How many delivery men were there that you saw?

22           **THE COURT:** She's already covered this.

23 **BY MR. BRUGNARA:**

24 **Q**       Two?

25           **MS. HARRIS:** Objection, your Honor. Asked and

1 answered.

2 **THE COURT:** Sustained.

3 (Brief pause.)

4 **BY MR. BRUGNARA:**

5 **Q** Okay. Ms. Long --

6 **MR. BRUGNARA:** I call the Court to Page 123 of the  
7 Form 12, Line 21.

8 **THE COURT:** Ask a fresh question that doesn't tie  
9 into the document per se, and then if she contradicts herself,  
10 you can -- you can then read the testimony.

11 **BY MR. BRUGNARA:**

12 **Q** Okay. Ms. Long, you stated regarding the alleged invoices  
13 that you brought to the Sea Cliff house when they were brought  
14 into evidence in the Form 12 hearing, you said, quote, No,  
15 these are not --

16 **MS. HARRIS:** Your Honor, this is not a proper  
17 question.

18 **THE COURT:** It's not proper. You have to --

19 **BY MR. BRUGNARA:**

20 **Q** Ms. Long --

21 **THE COURT:** It's not proper.

22 **BY MR. BRUGNARA:**

23 **Q** Do you remember testifying about the invoices that you  
24 allegedly brought to the -- to 224 Sea Cliff Avenue?

25 **THE COURT:** Earlier today?

1           **MR. BRUGNARA:** During the Form 12 hearing and earlier  
2 today.

3           **MS. HARRIS:** Your Honor, there was no testimony about  
4 what Mr. Brugnara is trying to ask about.

5           **MR. BRUGNARA:** That's not true.

6           **THE COURT:** I'm sorry?

7           **MS. HARRIS:** There was not -- this is beyond the  
8 scope of the direct.

9           **THE COURT:** But it is cross examination.

10           Why don't you just ask a fresh question about invoices and  
11 not tie it into the Form 12 yet.

12           **MR. BRUGNARA:** Okay.

13           **THE COURT:** And then if she gives a different answer,  
14 you can then try to --

15 **BY MR. BRUGNARA:**

16 **Q** Ms. Long, do you remember testifying during the Form 12  
17 hearing that we had several conversations and -- just to  
18 refresh your memory, so you can answer it truthfully --

19           **MS. HARRIS:** Your Honor, objection --

20           **THE COURT:** Sustained. It's improper. I know you  
21 understand what I asked you to do.

22 **BY MR. BRUGNARA:**

23 **Q** Ms. Long, Ms. Long, do you remember discussing the many  
24 phone calls in and between you and I changing opinions and  
25 minds regarding this transaction?

1           **MS. HARRIS:** Your Honor, I'm going to object to that.  
2 It's unintelligible.

3           **MR. BRUGNARA:** Well, it goes to her state of mind,  
4 because she's the one that said it. I'd like her to explain  
5 it.

6           **THE COURT:** Just ask --

7           **THE WITNESS:** I don't know what you asked.

8           **THE COURT:** She doesn't understand the question,  
9 so --

10 **BY MR. BRUGNARA:**

11 **Q** Ms. Long, it is hard to follow the bouncing ball here, but  
12 this is what you said at the Form 12 hearing --

13           **THE COURT:** You don't get to do it that way.

14 **BY MR. BRUGNARA:**

15 **Q** Ms. Long, do you remember having many phone calls by and  
16 between Brugnara and yourself whereas there were changed  
17 opinions and changed minds regarding this transaction?

18           **THE COURT:** All right. That's -- do you understand  
19 that? That's a proper question.

20 **A** There were not many. There were a few.

21 **BY MR. BRUGNARA:**

22 **Q** Okay. Why did you testify under sworn statement in this  
23 court --

24           **THE COURT:** Just read it. If she testified  
25 differently, read the actual testimony.

1 BY MR. BRUGNARA:

2 Q Ms. Long, Ms. Long, you testified there are many, many  
3 phone calls --

4 MS. HARRIS: Where is it?

5 THE COURT: What page number, please?

6 BY MR. BRUGNARA:

7 Q -- in between that there were changed opinions or minds.

8 MS. HARRIS: Where is it?

9 THE COURT: Could you please give counsel --

10 MR. BRUGNARA: That is Page 123, Line 22 and 23.

11 THE COURT: All right. So let's read the exact  
12 question and the exact answer that was given before so the jury  
13 can assess if there's a contradiction.

14 All right. So let's just -- just go ahead and read it.

15 BY MR. BRUGNARA:

16 Q You were discussing, here, the invoices:

17 "QUESTION: Are these not the same invoices  
18 then?

19 "ANSWER: No. These are my original  
20 invoices when I was writing up. But the  
21 headline, it's a long story. There are many  
22 phone calls in between, and there are many  
23 changed opinions or minds."

24 MS. HARRIS: He cut off the answer that --

25

1 BY MR. BRUGNARA:

2 Q "I had to prepare it again for me to bring personally to  
3 hand it to him," which is consistent with that.

4 So is it my understanding of this that there were many  
5 changed opinions and changes of minds in your perception of the  
6 communications between us regarding this art?

7 A No. When I say "many," there were conversations between  
8 Walter Maibaum and you and myself as far as what the prices  
9 would be, what the discounts you asked for.

10 You asked all kinds of questions, and I would have to get  
11 to him. So there were other, you know, phone calls. So, yes,  
12 several times we had to have other discussions.

13 Q And would --

14 A You never did anything --

15 Q And where -- where --

16 A -- but want them in your museum.

17 Q Yet, you didn't memorialize any of these discussions in  
18 any emails or any written correspondence between Brugnara and  
19 yourself --

20 A Yes.

21 Q -- or Brugnara and Maibaum?

22 A Yes. That's not phone calls.

23 Q And -- and where is that memorialized, Ms. Long?

24 THE COURT: Where what is?

25 A Emails. We've already been through this.



1 BY MR. BRUGNARA:

2 Q No. Ms. Long, this question was regarding --

3 MS. HARRIS: Your Honor, he --

4 BY MR. BRUGNARA:

5 Q -- subsequent to the invoicing, or the alleged invoicing  
6 of de Koonings where there were changed opinions and changed  
7 minds.

8 Ms. Long --

9 THE COURT: You're asking her now to tell you what  
10 she was referring to a year ago there?

11 BY MR. BRUGNARA:

12 Q Ms. Long, Ms. Long --

13 THE COURT: Can you do that?

14 BY MR. BRUGNARA:

15 Q Ms. Long, you stated to the Court last June that Walter  
16 Maibaum did not want his name divulged, so everything was done  
17 in your name, and you had to answer as if it were you.

18 A Yes.

19 Q Did you ever tell and -- I know -- I didn't appreciate it  
20 either. Did you ever divulge or disclose to me that, in fact,  
21 Walter Maibaum was directing this deal?

22 A No, I had never talked to you about Walter Maibaum.

23 Q Okay. Are you aware that you're required to do that, to  
24 have transparent, open -- on a sale, at least in California,  
25 that you cannot deceive or withhold material information

1 regarding a sale of property?

2 **MS. HARRIS:** Your Honor --

3 **THE COURT:** What Mr. Brugnara just said is not the  
4 law.

5 **MR. BRUGNARA:** Certainly is.

6 **THE COURT:** It's an incorrect statement.

7 **MR. BRUGNARA:** Certainly is.

8 **THE COURT:** The jury will disregard it. That  
9 question is stricken.

10 **MR. BRUGNARA:** There are books on nondisclosure law,  
11 and they all require transparency and material disclosures. So  
12 I don't know what law you're -- I've been in civil court for 22  
13 years --

14 **THE COURT:** Well --

15 **MR. BRUGNARA:** -- on \$2 billion of deals, and you  
16 have to disclose everything to all the parties so they can make  
17 an informed decision that's not prejudiced --

18 **THE COURT:** Ladies and gentlemen of the jury, this  
19 that's totally improper. What Mr. Brugnara is doing right now  
20 must be disregard by you.

21 I tell you that is not the law that applies in this case.  
22 N-O-T, not the law. It is not the law.

23 And you're not supposed to be arguing the law with the  
24 witness anyway.

25 **MR. BRUGNARA:** I understand, your Honor.

1           **THE COURT:** So it's now -- you've got four minutes to  
2 go.

3 **BY MR. BRUGNARA:**

4 **Q** We'll bring in a legal expert to explain what your  
5 responsibilities are --

6           **THE COURT:** It's my duty to tell the jury what the  
7 law is. You're stuck with it, whether you like it or not.  
8 Move on.

9 **BY MR. BRUGNARA:**

10 **Q** Ms. Long, you stated under sworn testimony last June that  
11 you took out another floater insurance policy to send the  
12 de Koonings. Is that true?

13 **A** No. And I --

14 **Q** That's fine, Ms. Long.

15 **A** No. You can't --

16 **Q** That's a yes-or-no answer. I don't need -- I don't need a  
17 "dog ate my homework" excuse.

18           **MS. HARRIS:** Your Honor, objection --

19           **THE COURT:** Would you like to explain your answer?

20 Mr. Brugnara, please remain silent.

21 Finish your answer.

22           **THE WITNESS:** Yes. I took one out. But when they  
23 came back and told me that it would be \$60,000 for the  
24 insurance, I had a discussion with Walter, and he carried the  
25 insurance, though it wasn't that much because he already was

1 using Lloyd's of London.

2 And so I handled the freight and the crating and he did  
3 the insurance.

4 **THE COURT:** Thank you.

5 Next question.

6 **BY MR. BRUGNARA:**

7 **Q** Are you -- are you aware, or do you have knowledge,  
8 Ms. Long, personal knowledge, that Sotheby's and Christie's say  
9 that the art that you tried to tell me is not worth anything?

10 **MS. HARRIS:** Your Honor, I'm going to object. There  
11 is no foundation.

12 **THE COURT:** There's no foundation for that question.  
13 And it's a --

14 **MR. BRUGNARA:** I asked her if she had personal  
15 knowledge, your Honor.

16 **THE COURT:** How is she going to know what --

17 **MR. BRUGNARA:** How is she going to know --

18 **THE COURT:** -- what Sotheby's told you?

19 **MR. BRUGNARA:** Because she said that --

20 **THE COURT:** That is an improper question. There's no  
21 foundation for it.

22 The jury will not infer from anything Mr. Brugnara just  
23 said that there has been any such communication. Disregard it.

24 Next question. You've got two minutes.

25 **MR. BRUGNARA:** Your Honor, that's -- two minutes?

1           **THE COURT:** Two minutes until 1:00 o'clock.

2           **MR. BRUGNARA:** Okay.

3           **THE COURT:** Then we'll decide where we are.

4 **BY MR. BRUGNARA:**

5 **Q** Ms. Long -- and, again, this is going back, all the way  
6 back to last year.

7           You were stating, quote, That he told me he would be  
8 afraid if anything happened, that, you know, it would be all  
9 over the news. It would be in the newspapers, in Artnet news,  
10 everything. It would ruin our reputations.

11           Ms. Long, Walter Maibaum was using you as a front to sell  
12 me fake art for millions of dollars that all the auction houses  
13 had rejected and was worth nothing; isn't it true?

14 **A** Why are you making -- then if it's worth nothing, why  
15 don't you give the Degas back?

16 **Q** Ms. Long, I don't have the Degas.

17           Ms. Long --

18           **MS. HARRIS:** Your Honor, I'm going to object --

19 **BY MR. BRUGNARA:**

20 **Q** Ms. Long --

21           **MS. HARRIS:** -- to Mr. Brugnara is testifying.

22           **THE COURT:** We're not going to --

23           **MR. BRUGNARA:** You have to admonish the -- I believe  
24 the witness --

25           **THE COURT:** First of all, the question was totally

1 improper. It's very argumentative. And it should -- so the --  
2 disregard the question, the answer, and the comment made by  
3 Mr. Brugnara.

4 One minute.

5 **BY MR. BRUGNARA:**

6 **Q** Ms. Long, on Page 105, Line 14, regarding the Picasso  
7 etching, or alleged attributed Picasso etching, you state:

8 "Another I would love to keep, but I can't, is a  
9 pencil 1934 etching signed In the Tavern."

10 You were asked:

11 "Do you know the Pablo Picasso etching?"

12 And you said:

13 "No."

14 Why do you imply that you own these when -- to me, when  
15 you, in fact, didn't own them?

16 **A** I'm not saying I own them. I'm just giving you the prices  
17 for it.

18 **Q** Okay. Ms. Long, let's go back to your email to me where  
19 you specifically state that you own all these pieces.

20 This is --

21 **THE COURT:** What exhibit number do you want?

22 **MR. BRUGNARA:** This is the third email. Exhibit  
23 No. 56.

24 **BY MR. BRUGNARA:**

25 **Q** You state here:

1 "Another I would love to keep, but I can't,  
2 is" -- again, this is the -- from the testimony --  
3 "In the Tavern."

4 Why did you tell me on Sunday, March 23rd, that you owned  
5 Picasso when, in fact, you didn't own it?

6 **MS. HARRIS:** Your Honor --

7 **A** I did not say I owned it. I said I wish I could own it.

8 **BY MR. BRUGNARA:**

9 **Q** No. You say here specifically: "I would love to keep,  
10 but I can't."

11 **A** Okay. Yes. Because now they are in my possession,  
12 because they're going -- being crated.

13 **MS. HARRIS:** Your Honor. Your Honor.

14 **BY MR. BRUGNARA:**

15 **Q** This is March 23rd. You've already testified that they  
16 weren't crated until the first week of April.

17 **A** I didn't --

18 **Q** This is a week and a half prior to that. This first day  
19 we were having email communications together --

20 **A** You were just having conversations any old way you want.  
21 Just blowing -- that's not exactly what I said.

22 It took a long time it started being able to get prepared  
23 to be freighted. But it takes weeks and weeks to get it to  
24 that point, because every crate has to fit the work, the image  
25 of the art, the size and everything.

1 Q Ms. Long --

2 THE COURT: Wait. Wait. She's not finished her  
3 answer.

4 Have you finished your answer?

5 THE WITNESS: Yes.

6 BY MR. BRUGNARA:

7 Q Ms. Long, our first communication was on March 22nd. And  
8 the art was shipped, I believe, on the 2nd or the 3rd. That's  
9 a week.

10 A Yes.

11 MR. BRUGNARA: She just stated on the record that it  
12 takes three weeks to make a box --

13 THE WITNESS: I didn't say three weeks. I said  
14 weeks.

15 THE COURT: The jury will understand what she said or  
16 did not say.

17 It's now 1:00 o'clock. Ladies and gentlemen, I thank you  
18 for your careful attention. We will see you here tomorrow at  
19 the normal time. We may even start earlier if you all are  
20 here. So thank you very much.

21 Dawn, can you escort the jury out?

22 THE CLERK: All rise.

23 (Jury exits courtroom at 1:01 p.m.)

24 THE COURT: All right. Ms. Long, don't forget your  
25 purse. But I'm going to -- I want you to be available tomorrow



1 morning at 7:30. I'm not sure how much longer you'll be on the  
2 stand, if at all. So please be available at 7:30 a.m. here.  
3 All right?

4 Thank you.

5 (witness steps down)

6 **THE COURT:** Everyone be seated.

7 Ms. Harris?

8 **MS. HARRIS:** Your Honor, we would request that the  
9 Court end the cross examination today. That was completely  
10 abusive.

11 **MR. BRUGNARA:** Your Honor, she --

12 **MS. HARRIS:** Mr. Brugnara -- I am not finished.

13 **THE COURT:** Mr. Brugnara --

14 **MS. HARRIS:** I am not finished.

15 **THE COURT:** Stop.

16 **MS. HARRIS:** I am not finished.

17 **MR. BRUGNARA:** She should move to North Korea, your  
18 Honor. I think, you know, she's dressed for it --

19 **THE COURT:** Stop.

20 Finish your comment.

21 **MS. HARRIS:** Mr. Brugnara has made personal  
22 ad hominem attacks to the jury about this witness. It was  
23 completely improper.

24 I know the Court is trying its hardest to give  
25 Mr. Brugnara a fair trial. The Government is also entitled to

1 a fair trial, and this does not resemble a fair trial, what  
2 Mr. Brugnara is being allowed to do in front of the jury. He  
3 has abused the Court's goodwill, the Court's patience, and he  
4 has completely turned the --

5 **MR. BRUGNARA:** Your Honor, she can't determine  
6 what --

7 (Unreportable cross talk.)

8 **MR. BRUGNARA:** She's telling the Court --

9 **THE COURT:** Stop, stop, stop.

10 **MR. BRUGNARA:** She's making subjective changes.

11 **THE COURT:** Stop.

12 **MS. HARRIS:** Your Honor, I must be permitted to  
13 finish.

14 **THE COURT:** You are correct. Please continue.

15 **MS. HARRIS:** He has disparaged me publicly and in  
16 front of this jury. That is completely improper. If any  
17 attorney in this courtroom did what Mr. Brugnara did, they  
18 would be in jail. He is already in jail, but I'm also asking  
19 you to find him in contempt. He committed that contempt in  
20 front of you, and I would ask you to add whatever sentence, if  
21 you make that finding, onto any sentence that he will serve.

22 **THE COURT:** Am I entitled to do it right now?

23 **MS. HARRIS:** I think you can find him in summary  
24 contempt, your Honor.

25 **MR. BRUGNARA:** Your Honor --

1           **THE COURT:** What do you say to that?

2           **MS. HARRIS:** As long as --

3           **MR. BRUGNARA:** I think that -- I think that --

4           **MS. HARRIS:** I'm not done.

5           **MR. BRUGNARA:** -- she has been trying to -- to --

6 to -- to direct this Court -- can we have just a sidebar --

7           **THE COURT:** Stop.

8           **MR. BRUGNARA:** We --

9           **THE COURT:** I want to hear the rest of what she has  
10 to say.

11           **MR. BRUGNARA:** Your Honor -- your Honor, I would like  
12 to clear the courtroom to have this discussion.

13           **THE COURT:** No, you are not. This is a public  
14 proceeding.

15           **MR. BRUGNARA:** Okay.

16           **THE COURT:** Go ahead.

17           **MS. HARRIS:** Your Honor, this has been completely  
18 abusive to the Government, the Court, the jury, the witnesses  
19 and all of the Court personnel, including the United States  
20 Marshals.

21           Mr. Brugnara is entitled to a fair trial. He's entitled  
22 to represent himself. He is not entitled to turn the Federal  
23 Rules of Evidence on its head, to use this as a forum for his  
24 personal attacks on people's clothing --

25           **MR. BRUGNARA:** Your Honor, you know what --

1           **THE COURT:** Stop. Stop.

2           **MS. HARRIS:** -- on witnesses, and to otherwise turn  
3 this courtroom into a charade. And he should be held  
4 accountable for his behavior.

5           This Court has repeatedly given him infinite patience and  
6 goodwill and he has abused it all. And enough is enough.

7           **THE COURT:** Right.

8           **MS. HARRIS:** And he has abused this witness.

9           **THE COURT:** All right. What do you say? Now --

10           **MR. BRUGNARA:** My response is she's completely out of  
11 line. She is -- ever since she has stepped into this case, she  
12 has tried to direct this Court in her own style of the  
13 direction she wants this case to go, which is essentially  
14 muffle me, oppress me and not allow me to have a defense to the  
15 charges that have no merit whatsoever. And I have been having  
16 my defenses foreclosed based upon this Court protecting  
17 Ms. Long, and that's totally inappropriate.

18           This judge -- this Court has already ruled that open  
19 issues in the in limine rulings, specifically that the U.S.  
20 District filing Maibaum versus Long was of probative value as  
21 long as it was limited to the art in question in this case.

22           And I did not abuse that Court's ruling. And when I began  
23 to get -- every time I began to get traction on impeaching the  
24 witness, Ms. Harris strategically jumped up and made a  
25 technical -- a technical argument to -- to disrupt the

1 proceedings, and she constantly tries to play judge in this  
2 courtroom.

3 Moreover, Ms. Long made a very, very serious accusation  
4 against an esteemed member of the Manhattan Bar; that he, in  
5 fact, falsified her statements and -- and adopted them as fact  
6 and truth and then proffered them as truth to a sitting federal  
7 judge in the state of New York. And this Court can't give her  
8 a pass on that.

9 She has to be held accountable when she swears to God in  
10 this court of Judge Alsup that she's telling the truth. And  
11 if, in fact, she's telling the truth, and Judge -- and this  
12 Mr. Patterson lied to a sitting federal judge, he should lose  
13 his license.

14 But if she lied to this Court while I'm having my liberty  
15 seized from me on a daily basis, keeping me from my beautiful  
16 four children and my wife, and she thinks she can lie with  
17 impunity in this Court and besmirch a sitting -- besmirch the  
18 judicial process in New York, which is a federal court as well,  
19 and lie with impunity, that's absurd. She needs to be held  
20 accountable.

21 She is in the process of proving my entire case. Whatever  
22 comes out of her mouth can't be believed, unless it suits her  
23 needs. And she tries to use confusion and her  
24 misunderstanding. The fact of the matter is, she was trying to  
25 steal from me millions of dollars, selling me fake or very less

1 valuable art pieces.

2 And the fact is, it does go to the essence of the charge  
3 against me, because in order for me to be convicted of fraud, I  
4 have to have intent to defraud her. And it is all going to  
5 come -- there is only, what, ten emails. It's going to come  
6 down to the conversations, which she just testified on the  
7 witness stand were many. She testified at the Form 12 there  
8 were many telephonic conversations, and she just affirmed there  
9 were many telephonic conversations.

10 **THE COURT:** She said that was with Maibaum --

11 **MR. BRUGNARA:** No. She said --

12 **THE COURT:** -- and you.

13 **MR. BRUGNARA:** Well, the Form 12 says were with me.

14 **THE COURT:** No.

15 **MR. BRUGNARA:** And that was also sworn under oath  
16 when her memory was fresher than it was today. That was a year  
17 ago.

18 So in those conversations, whether it be few or many, my  
19 perception of what happened in those conversations and her  
20 perception of what happened in those conversations is clearly  
21 diametrically opposite.

22 I absolutely believed there was no contract. I absolutely  
23 believe we had no meeting of the minds, other than I had a year  
24 to evaluate and have due diligence of whether or not -- whether  
25 or not I wanted to buy these pieces. And that needs to come

1 into evidence, the fact that she lies constantly.

2 Now, they may still believe her. They may say: Hey,  
3 listen, she has lied 500 times. Half of them under oath in  
4 this court. And -- but you know what? I still believe her.

5 I doubt that's going to happen. I think this jury, when  
6 they hear each specific lie -- I can't be rushed anymore. Your  
7 Honor, you have to understand, I'm sitting in a cell half the  
8 size of your podium with 60,000 pages now. And I have proof,  
9 because I have 12 banker boxes, and each banker box holds 5,000  
10 pages. So 5,000 times 12 is 60,000 pages. I have 60,000 pages  
11 in a, what, 9-foot by 10-foot cell, with screaming murderers in  
12 my pod in an echo chamber. And I have to somehow, without  
13 staples or a paper clip or even a Redweld, to separate the  
14 evidence, somehow coordinate my evidence to present in a  
15 meaningful fashion in front of this Court and the jury.

16 Man, this is an impossible task that you have orchestrated  
17 here for Luke Brugnara. Because it would be nearly impossible  
18 if I was sitting in Sea Cliff, up all night, with all of it  
19 spread out on my dining room table then being able to come in  
20 here and present it in -- in -- in -- in a fashion that's  
21 coherent.

22 This is not the way that I conduct business, nor the way I  
23 conduct my life. I am extremely a perfectionist and detail  
24 oriented, and what's why I have been highly successful. And  
25 for me to come in here disorganized with papers strewn about,

1 no staples, no paper clips, no Redwelds, everything that anyone  
2 would just need, bare minimum, I don't have. And then the  
3 Court look at me with a raised eyebrow and go: Hey, what's --  
4 this isn't professional.

5 Man, I have had to learn the Rules of Evidence on my heels  
6 with no sleep for a year, losing 100 pounds with a bunch of  
7 murderers screaming in my pod, you know, with earplugs in my  
8 ear. Them kicking their doors. And I think I've done a pretty  
9 good job in the in limine hearings, advancing my arguments on  
10 803 and 404(2)(b), holding my own against Ms. Harris on a few  
11 of them. I thought that I might get a pat on the back or two.

12 I didn't tread at all on the -- on the subject matters  
13 that you have absolutely prohibited, and I honored this Court's  
14 request of me. I think I've done an admirable job in this  
15 Court.

16 Your Honor, this entire case is a single-claimant case.  
17 This is not Wells Fargo Bank or Citibank, which is the basis of  
18 most single-claimant fraud cases. This is a single individual.

19 My attorney, Babcock, wrote in this Court, it's on the --  
20 it's in the -- it's in the record of the -- of -- of this  
21 docket, that he has never seen in 30 years -- and he's very  
22 active in this Court -- a single-claimant fraud case, from a  
23 single claimant. Those go to civil court.

24 So this is highly unusual on itself that you have a  
25 single -- other than a bank or a savings and loan, sitting



1 there making an accusation against me that hasn't even been  
2 substantiated with -- with this missing Degas in a closet or  
3 stashed away, you know, buried in the ground. I mean, hey,  
4 then you could almost say this thing has got some teeth.

5 Man, this Degas sculpture, your Honor -- and you're a very  
6 reasonable man, very reasonable -- could have easily been  
7 grabbed by anybody going back and forth, or the delivery driver  
8 who hasn't even testified may -- who, by the way, has impeached  
9 himself, if you've got a keen eye and you read all the FBI  
10 reports, which I don't know whether the U.S. Attorneys have it  
11 or not. He has already impeached himself several times. He  
12 may have it in his living room.

13 Why am I being castigated and being disrespected after I  
14 have built up a good reputation in this community as a  
15 businessman? No one has ever accused me of any criminal  
16 misconduct in my entire life, business life, in my business  
17 activities. On a lot of business, whether it be a billion or  
18 2 billion. It's somewhere in there. That's a lot of business  
19 and no one has ever said: Hey, man. You are a thief. You are  
20 a liar.

21 Except her, this crazy, crazy woman. Because, you know  
22 what? If she is not on medication, she should be. The woman  
23 doesn't think straight, like she said. She qualifies it as,  
24 "I have an artistic mind."

25 No. She has a mind that is scatterbrained. And the fact

1 of the matter is I have sat in jail for 11 months because in  
2 her mind she believes she had something that she never had, and  
3 it's not memorialized in writing. It's not memorialized in a  
4 deposit. She already testified with Brandon LeBlanc, out of  
5 300 sales, this is the only sale she's never had a contract,  
6 written contract.

7 And I sat in jail for 11 months based upon what -- my life  
8 is on the line. I haven't seen my daughter, who sat out in  
9 that audience there, in eight months, man.

10 I could be dead in a few -- you say I don't have cancer.  
11 I saw the doctor yesterday at 4:00 o'clock in the morning, and  
12 she is going to sit there and testify. And she said I might  
13 have cancer.

14 So what happens when I'm dead and I get cut off from my  
15 children for the last six or eight months of my life because  
16 you kept me in jail and I haven't done a damn -- I told the U.S  
17 Attorneys, I said, give me a lie detector test.

18 I said it to Sprague. I said it to Ms. Harris. And the  
19 FBI was sitting right there. I go, I know it's not admissible,  
20 but let's do it, so you can get off my case. And they won't do  
21 it because they don't want to hear the truth.

22 I just want to get -- I have not used profanity with this  
23 woman. I've tried to show respect. But the fact of the matter  
24 is she is disparaging my entire life. She is the only person  
25 that has pointed a finger at me and said: You are a thief.

1 You are a liar. You are a crook. No one has said it.

2 And we're going to have witnesses sit up there that are  
3 the top banking executives in Manhattan. They are going to  
4 say: Hey -- that are older than you. They are going to say:  
5 Hey, I lent this guy \$500 million and he has paid back every  
6 penny on time in full. Did he do a reorganization? Well,  
7 yeah. Did he torture the lenders? No. He still paid back  
8 every one.

9 I know how to torture a lender for four years if I wanted  
10 to, and I didn't. I have integrity. Even when I can get away  
11 with stealing \$20 million legally from a lender, I didn't do.

12 I don't want their stupid Degas.

13 **THE COURT:** All right.

14 **MR. BRUGNARA:** Your Honor, he even said 200 grand,  
15 100 grand, 50 grand. That's a joke. That's a joke in my life.

16 You heard Ms. Michelman on the phone. Man, I -- I buy  
17 \$10 million of paintings. I bought -- my house -- the house  
18 next door just sold for 3,100 a foot. A shack. The house is  
19 worth -- this is a joke having this conversation. Because I'm  
20 sitting in jail being kept from my family?

21 This is what I propose, your Honor. This is what I  
22 propose as a solution --

23 **THE MARSHAL:** It's over.

24 **MR. BRUGNARA:** Okay. Your Honor, let me go free on  
25 bail to Sea Cliff. Let's redo this the -- your Honor, let's

1 redo this the right way. I will hire an attorney.

2 **THE COURT:** The trial --

3 **MR. BRUGNARA:** I will hire --

4 **THE COURT:** The trial has started.

5 **MR. BRUGNARA:** I will hire an attorney --

6 **THE COURT:** The trial has started. We're going to  
7 the end.

8 **MR. BRUGNARA:** Okay. Then I need to be allowed to --

9 **THE COURT:** And you're not helping yourself. So, all  
10 right. You've said enough.

11 **MS. HARRIS:** Okay. Your Honor --

12 **THE COURT:** So you don't get to say anything more.  
13 I'm going to make a ruling.

14 All right. Number one, with respect to the witness on the  
15 stand, I have never seen such an abusive performance by anyone,  
16 even Mr. Brugnara, as happened with -- with Rose Long. So the  
17 ruling is that the cross examination is over, subject to one  
18 thing.

19 In the morning at 7:30 you can come in and make a specific  
20 offer of proof of specific items that you want to bring up.  
21 Just limit it to your top two or three. If those are good  
22 enough, I'll consider letting you continue with the cross  
23 examination. But if it's just going to be more of the  
24 ad hominem attacks on the Government, on the judge, on the  
25 witness, on the system, and -- and not following the -- the

1 Rules of Evidence -- and I know you by now. You know what  
2 you're doing wrong. You just continue to do it. So we're not  
3 going to do that.

4 It's going to have to be very persuasive that you need  
5 more time with this witness because you've wasted -- you  
6 squandered the time that you had with her today and abused this  
7 witness.

8 I want to say one other thing. I think she's probably got  
9 post-traumatic stress syndrome now, and the Government is  
10 totally free to talk to her all you want, including the FBI,  
11 because I'm afraid that she has been done mental damage by the  
12 way in which she has been treated by Mr. Brugnara today.

13 So there is no restriction on you, even though she's  
14 technically on cross examination.

15 **MR. BRUGNARA:** Okay. Can I make --

16 **THE COURT:** No. No.

17 **MR. BRUGNARA:** Can I have the attorneys confer with  
18 me --

19 **THE COURT:** No. I'm making a ruling now.

20 **MR. BRUGNARA:** Okay.

21 **THE COURT:** That's number one.

22 Number two is, I am holding you in summary contempt, and  
23 whatever sentence you get in this case, 21 days is going to be  
24 added to it for you violating the rules. And the rules are --  
25 you have violated -- you're supposed to follow the Rules of

1 Evidence. And even cutting you slack for being pro se, you  
2 know better than -- you have done the same violations over and  
3 over again, and you know by now that you're -- you're violating  
4 that direct order to follow the rules in court. So it's going  
5 to be 21 days added.

6 Now, the next time I hold you in summary contempt, it's  
7 going to be 60 days added. And then after that, it will be 90  
8 days. So you need to start behaving yourself, Mr. Brugnara.

9 I know you think this is some kind of kangaroo court. I  
10 don't think so. This is the United States of America and the  
11 U.S. District Court, and you will have some day the right to go  
12 to the Court of Appeals and appeal if you're convicted. Okay.  
13 You can do that. But -- and if I get -- if I get reversed, so  
14 be it. I think I've done the right thing.

15 Now, that's all. We're not going to argue any more today  
16 on it. I got -- I'm five minutes late on the next criminal  
17 case, and I'm going to see you all at 7:30 in morning --

18 **MR. BRUGNARA:** I need an order to -- to the associate  
19 advisory counsel, or whatever you --

20 **THE COURT:** No, you have it. I've already done --  
21 I've already done it.

22 **MR. BRUGNARA:** I need them to -- to meet with me  
23 today. I guess, while they are here would probably be the best  
24 time for at least --

25 **THE COURT:** The 20th floor. Let the Marshals -- you

1 all go meet with him.

2 And now I want to say something --

3 **MR. BRUGNARA:** I want for a minimum time, too,  
4 because they will come up for five, ten. I need an hour  
5 minimum and I --

6 **THE COURT:** Take an hour. I -- I want you -- you  
7 lawyers are -- if you're giving him advice to do what he has  
8 been doing, then I'm very disappointed in you.

9 **MR. TAMOR:** Well, hold on.

10 **THE COURT:** All right. Wait a minute. You don't  
11 have to reveal, but I know you're both better than that.

12 Mr. Stevens -- and here is the other thing. I don't want  
13 there to be any doubt about this. If Mr. Brugnara is going to  
14 testify in his defense, somebody has got to ask the questions.  
15 Either I get to ask them or one of you two get to ask him. So  
16 you -- I would prefer that one of you two ask the questions.  
17 You can at least do that much.

18 So start thinking about who is going to ask because I have  
19 a feeling he's going to -- he's going to testify,  
20 notwithstanding his claims that he's not.

21 So all right. What did you want to say?

22 **MR. TAMOR:** A couple of things, your Honor. First, I  
23 have to be in front of Judge Chen at 2:30.

24 **THE COURT:** All right. Go. You're excused then.  
25 You didn't have to be here. Mr. Stevens will answer the

1 questions. Fine. You don't have to go up there now.

2 You weren't in here for the 100 percent duration. You're  
3 supposed to be here as much as you can be, but I will let you  
4 -- I know you have that hearing. So, go ahead.

5 **MR. TAMOR:** And the other thing I wanted to raise,  
6 your Honor. I don't represent Mr. Brugnara, but if I was, I  
7 certainly would probably file a motion to determine his  
8 competency, either to understand the proceedings against him  
9 and/or to aid in his defense.

10 **THE COURT:** You know what? I thought about that.  
11 There is no doubt that he's competent. There is -- we have  
12 been through this. You're new to the -- you're the new kid on  
13 the block.

14 Mr. Brugnara knows good and well what he's doing. This is  
15 part of his thing. And he is a bully. He likes to bull his  
16 way through life. He is smart-as-a-whip guy, and he is not  
17 incompetent. He has been down this path, and he's admitted  
18 that he's competent.

19 So, good for you. That is the first possible reaction  
20 when someone sees what goes on with Mr. Brugnara, but it is not  
21 correct. And I've given that a lot of thought. So don't worry  
22 yourself over that. And that's not your job here. Your job is  
23 to give him advice on how to try this case.

24 We're not going to dismiss this case. This jury, who has  
25 heard all of this misconduct by Mr. Brugnara, is going to



1 decide his guilt or innocence. And if he's convicted, he is  
2 going to go up on appeal.

3 **MR. BRUGNARA:** Your Honor, I disagree --

4 **THE COURT:** We're not starting over.

5 **MR. BRUGNARA:** I disagree about misconduct. I'm not  
6 asking as to start over, but this Court --

7 **THE COURT:** I don't care whether you disagree. I've  
8 made the ruling. The Marshals are going to take Mr. Brugnara  
9 out of here, and we're going to go to the next case.

10 (Whereupon at 1:21 p.m. further proceedings were  
11 adjourned until Thursday, April 30, 2015 at 7:30  
12 a.m.)  
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I N D E X

**PLAINTIFF'S WITNESSES**

**PAGE**

**VOL.**

**MAIBAUM, WALTERN**

(PREVIOUSLY SWORN)

565

3

Cross Examination Resumed by Mr. Brugnara

566

3

Redirect Examination by Mr. Kingsley

606

3

Recross Examination by Mr. Brugnara

612

3

**LONG, ROSE RAMEY**

(SWORN)

620

3

Direct Examination by Ms. Harris

621

3

Cross Examination by Mr. Brugnara

747

3

- - -

E X H I B I T S

<u>TRIAL EXHIBITS</u>	<u>EVID</u>	<u>VOL.</u>
29	609	3
54	631	3
55	633	3
56	634	3
57	637	3
58	640	3
59	643	3
60	645	3
61	649	3
62	653	3
63	657	3
64	659	3
65	662	3
66	664	3
67	666	3
68	670	3
69	675	3
71	676	3
72	679	3
73	684	3
74	688	3
75	692	3
76	694	3
77	701	3
5	705	3
79	717	3
80	728	3

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CERTIFICATE OF REPORTER

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

*Debra L. Pas*

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Debra L. Pas, CSR 11916, CRR, RMR, RPR

*Belle Ball*

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Belle Ball, CSR 8785, CRR, RMR, RPR

Wednesday, April 29, 2015